

18. Submittal of Reports or Other Information All reports or other information required to be submitted by the terms of this permit must be sent to:

Indiana Department of Environmental Management
Office of Land Quality
Hazardous Waste Permit Section
Attn: Chief Hazardous Waste Permit Section
IGCN 1101
100 N. Senate Avenue
Indianapolis, IN 46204
(800) 451-6027

19. All other requirements contained in 40 CFR 270.30 not set forth herein are hereby fully incorporated in this permit.
- E. SIGNATORY REQUIREMENT All reports or other information requested by the Commissioner shall be signed and certified. 329 IAC 3.1-13; 40 CFR 270.11
- F. CONFIDENTIAL INFORMATION The Permittee may claim confidential any information required to be submitted by this permit. Confidential claims must be submitted in accordance with 329 IAC 6.1. 329 IAC 3.1-13-4; 329 IAC 6.1; IC 13-14-11-1
- G. WASTE MINIMIZATION The Permittee must certify at least annually that the Permittee has a program in place to reduce the volume and toxicity of hazardous waste that the Permittee generates to the degree determined by the Permittee to be economically practicable; and the proposed method of treatment, storage, or disposal is that practicable method currently available to the Permittee which minimizes the present and future threat to human health and the environment. The certifications must be recorded, as they become available, and maintained in the operating record. 40 CFR 264.73(b)(9)
- H. DOCUMENTS TO BE MAINTAINED AT FACILITY SITE Except as noted in the regulations, until closure is completed and certified by the owner/operator and a qualified professional engineer, the Permittee must maintain at the facility the most recent version of the following documents required by this permit:
1. Waste Analysis Plan and any document(s) referenced therein to describe on-site procedures (329 IAC 3.1-9, 40 CFR 264.13);
 2. Personnel Training documents and records (329 IAC 3.1-9, 40 CFR 264.16(d) and (e));

3. Contingency Plan (329 IAC 3.1-9, 40 CFR 264.53(a));
4. Closure Plan (329 IAC 3.1-9, 40 CFR 264.112(a)(2));
5. Cost estimate for facility closure (329 IAC 3.1-15-3);
6. Operating record (329 IAC 3.1-9, 40 CFR 264.73);
7. Inspection schedules (329 IAC 3.1-9, 40 CFR 264.15(b)(2));
8. Record of facility inspections kept for at least 3 years from the date of the inspection (329 IAC 3.1-9, 40 CFR 264.15(d));
9. Copies of all manifests for shipments of hazardous waste received at and originating from this facility, kept for at least 3 years (329 IAC 3.1-7, 329 IAC 3.1-9-2(6), 40 CFR 262.40, 40 CFR 264.71);
10. Notifications from generators subject to 40 CFR Part 268, Subtitle C, that specify treatment standards (40 CFR 264.73, 268.7);
11. Waste minimization certifications must be part of the operating record (40 CFR 264.73(b)(9));
12. Corrective Action reports and records as required by Permit Conditions VI of this permit, maintained for at least 3 years after all Corrective Action Activities have been completed;
13. Records regarding closed-vent systems and control devices, and equipment leaks, and/or tank, surface impoundments and containers as required by Permit Condition V of this permit;

II. GENERAL FACILITY CONDITIONS

- A. DESIGN AND OPERATION OF FACILITY The Permittee shall maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
- B. Required Notice
1. The Permittee must notify the Commissioner in writing at least 4 weeks in advance of the date the Permittee expects to receive hazardous waste from a foreign source. Notice of subsequent shipments of the same waste having the same EPA hazardous waste number from the same foreign source is not required. 329 IAC 3.1-9; 40 CFR 264.12(a)
 2. When the Permittee is to receive hazardous waste from an off-site source (except where the Permittee is also the generator), it must inform the generator in writing that it has the appropriate permits for, and will accept, the waste the generator is shipping. The Permittee must keep a copy of this written notice as part of the operating record. (See Permit Condition II.K.1) 329 IAC 3.1-9; 40 CFR 264.12(b)
- C. GENERAL WASTE ANALYSIS The Permittee must comply with the procedures described in the attached Waste Analysis Plan, Attachment C, which is incorporated herein by reference.
- D. SECURITY The Permittee must comply with the security provisions described in the Procedures to Prevent Hazards, Attachment F, which is incorporated herein by reference. 329 IAC 3.1-9; 40 CFR 264.14(b) and (c)
- E. GENERAL INSPECTION REQUIREMENTS The Permittee must follow the inspection schedule in the Procedures to Prevent Hazards, Attachment F. The Permittee must remedy any deterioration or malfunction discovered by an inspection. 329 IAC 3.1-9; 40 CFR 264.15(c)
- F. PERSONNEL TRAINING The Permittee must conduct personnel training. This training program must follow the attached outline in the Personnel Training Plan, Attachment H, which is incorporated herein by reference. 329 IAC 3.1-9; 40 CFR 264.16

G. GENERAL REQUIREMENTS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTE The Permittee must comply with the requirements of 329 IAC 3.1-9 and 40 CFR 264.17.

H. PREPAREDNESS AND PREVENTION

1. Required Equipment The Permittee must equip the facility with the equipment set forth in the attached Contingency Plan, Attachment G, which is incorporated herein by reference. 329 IAC 3.1-9; 40 CFR 264.32
2. Testing and Maintenance of Equipment The Permittee must test and maintain the equipment specified in Attachment G (see the previous permit condition) as necessary to assure its proper operation in time of emergency. Such testing and maintenance activities are set forth in the inspection schedule in Attachment F. 329 IAC 3.1-9; 40 CFR 264.33
3. Access to Communications or Alarm System The Permittee must maintain access to the communications or alarm systems. 329 IAC 3.1-9; 40 CFR 264.34
4. Required Aisle Space The Permittee must maintain sufficient aisle space. 329 IAC 3.1-9; 40 CFR 264.35
5. Arrangements with Local Authorities The Permittee must attempt to make arrangements with State and local authorities. If State or local officials refuse to enter into preparedness and prevention arrangements, the Permittee must document this refusal in the operating record. 329 IAC 3.1-9; 40 CFR 264.37

I. CONTINGENCY PLAN

1. Implementation of Plan The Permittee must immediately comply with the provisions of the Contingency Plan, Attachment G, and follow the emergency procedures described by 329 IAC 3.1-9-2(3) and (4) and 40 CFR 264.56 whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which threatens or could threaten human health or the environment.
2. Copies of Plan The Permittee must maintain a copy of the Contingency Plan at the facility and submit a copy to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services. 329 IAC 3.1-9; 40 CFR 264.53

3. Amendments to Plan The Permittee must review and immediately amend, if necessary, the Contingency Plan, when required by 329 IAC 3.1-9 and 40 CFR 264.54.
 4. Emergency-Coordinator The Permittee must comply with the requirements of 329 IAC 3.1-9 and 40 CFR 264.55, concerning the Emergency Coordinator.
- J. MANIFEST SYSTEM The Permittee must comply with the manifest requirements. 329 IAC 3.1-9; 40 CFR 264.71, 264.72, 264.76
- K. RECORD KEEPING AND REPORTING In addition to the record keeping and reporting requirements specified elsewhere in this Permit, the Permittee must comply with the following record keeping and reporting requirements:
1. Operating Record Maintain a written operating record at the facility. 329 IAC 3.1-9; 40 CFR 264.73
 2. Sampling and Analysis Records Keep original or exact copies of all sampling and analysis records available for inspection. 329 IAC 3.1-9; 40 CFR 264.74
 3. Biennial Report Comply with the biennial report requirements. 329 IAC 3.1-9; 40 CFR 264.75
- L. CLOSURE
1. Performance Standard The Permittee must close the facility as required by 329 IAC 3.1-9, 40 CFR 264.111 and the Closure Plan, Attachment I, which is incorporated herein by reference.
 2. Amendment to Closure Plan The Permittee must amend the Closure Plan whenever necessary, and whenever requested by the Commissioner. 329 IAC 3.1-9; 40 CFR 264.112(c)
 3. Notification of Closure The Permittee must notify the Commissioner in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed. 329 IAC 3.1-9; 40 CFR 264.112(d)

4. Time Allowed for Closure After receiving the final volume of hazardous waste, the Permittee must treat or remove from the site all hazardous waste in accordance with the schedule specified in the Closure Plan, Attachment I. After receiving the final volume of hazardous waste, the Permittee must complete closure activities in accordance with the schedule specified in the Closure Plan. 329 IAC 3.1-9; 40 CFR 264.113
5. Disposal and/or Decontamination of Equipment When closure is completed, the Permittee must properly decontaminate and/or dispose of all facility equipment contaminated with hazardous waste as required by the Closure Plan. 329 IAC 3.1-9, 40 CFR 264.114.
6. Certification of Closure When closure is completed, the Permittee and a qualified professional engineer must certify to the Commissioner that the facility has been closed in accordance with the specifications in the Closure Plan. 329 IAC 3.1-9; 40 CFR 264.115

For a partial closure, the Permittee shall submit a permit modification no later than 45 days after certification approval that removes the unit from service, replaces the unit, proposes new unit to be permitted, or requests to the Commissioner that a time extension to submit the permit modification be granted for good cause.

- M. COST ESTIMATE FOR FACILITY CLOSURE The Permittee's closure cost estimate, prepared in accordance with 329 IAC 3.1-15-3, is specified in the Closure Plan. The Permittee must comply with the following:

1. Adjust the closure cost estimate for inflation within 60 days prior to each anniversary date of the establishment of the financial instrument. 329 IAC 3.1-15-3(b)
2. When using the financial test or corporate guarantee, adjust the closure cost estimate for inflation within 30 days after the close of the Permittee's fiscal year and before the submission of updated information to the Commissioner. 329 IAC 3.1-15-3(b)
3. Revise the closure cost estimate whenever there is a change in the facility's closure plan. The cost estimate must also be revised within 30 days after a change that would increase the costs associated with management of hazardous secondary materials. 329 IAC 3.1-15-3(c); 329 IAC 3.1-6-1
4. Keep at the facility the latest closure cost estimate. The estimate must also include the cost of disposing of any hazardous secondary material as

hazardous waste, and the potential cost of decontaminating the unit utilized to manage the hazardous secondary material. 329 IAC 3.1-15-3(d); 329 IAC 3.1-6-1

- N. FINANCIAL ASSURANCE FOR FACILITY CLOSURE The Permittee must maintain financial assurance in at least the amount of the cost estimates required by Permit Condition II.M, and provide documentation as required. Changes in financial assurance mechanisms must be approved by the Commissioner. 329 IAC 3.1-15-4
- O. INCAPACITY OF OWNERS OR OPERATORS, GUARANTORS, OR FINANCIAL INSTITUTIONS The Permittee must comply with 329 IAC 3.1-15-9 whenever necessary.
- P. LIABILITY REQUIREMENTS The Permittee must maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs. 329 IAC 3.1-15-8
- Q. LAND DISPOSAL RESTRICTIONS
1. The Permittee shall comply with all the applicable self-implementing requirements of 40 CFR Part 268 and all applicable land disposal requirements which become effective by federal statute.
 2. The Permittee shall comply with the dilution prohibition requirements described in 40 CFR 268.3.
 3. The Permittee shall comply with all testing, tracking, and recordkeeping requirements for treatment facilities described in 40 CFR 268.7.
 4. The Permittee shall comply with all the applicable prohibitions on storage of restricted wastes specified in 40 CFR 268 Subpart E.
 5. If the Permittee applies to the Administrator of the EPA for an exemption from land disposal restrictions described in 329 IAC 3.1-12-2, the Permittee must submit copies of such request and all supporting documents to the IDEM Commissioner. If the Permittee obtains an exemption from the administrator of the EPA, the Permittee must apply to the Commissioner for concurrence that such an exemption is consistent with the policies outlined in IC 13.

- R. HAZARDOUS SECONDARY MATERIALS For hazardous secondary materials received and managed under the 40 CFR 261.4(a)(24) exclusion, the Permittee shall comply with the requirements of 40 CFR 261.4(a)(24)(vi), and comply with 40 CFR 261.4(a)(24)(vi)(D-G) by management of the waste under the same Permit Standards for hazardous waste detailed in this permit.
- S. EQUIPMENT OR SECONDARY CONTAINMENT MATERIAL PERFORMANCE STANDARD An equipment or secondary containment material performance standard is a measurable standard which meets or exceeds the applicable regulatory requirements, and which has been developed by recognizing, identifying and addressing the critical application and purpose of the subject equipment or secondary containment material in a manner acceptable to the Commissioner. Through the application of these considerations, the permittee has established language in Attachment D of this Permit for equipment-specific and secondary containment material-specific standards for the purpose of allowing greater flexibility and speed in the course of replacing equipment or secondary containment materials.

A performance standard is, in every aspect, equivalent to a prescriptive requirement. It is a standard for which "functional equivalence" has been carefully considered, established and specified in the permit to accommodate future needs. For this reason, implementation of this provision requires no further permit requirements or actions other than a notation in the operating records of the facility and a letter of notification to IDEM, OLQ, Permits Branch, specifying the action taken and the equipment or secondary containment material that was selected for this purpose. The letter of notification must be submitted to IDEM, OLQ, Permits Branch, no later than fifteen (15) days after the new equipment or secondary containment material meeting the identified performance standard is brought into operation, applied or installed. However, if the use of equipment or a secondary containment material meeting the performance standard will result in additional changes to the permit (e.g., inspection requirements, etc.), then Tradebe shall submit the appropriate permit modification request prior to replacing the equipment or secondary containment materials.

III. CONTAINER STORAGE CONDITIONS

A. WASTE IDENTIFICATION

1. The Permittee may store and/or treat a total volume of 756,250 gallons of wastes (including 346,060 gallons of liquid wastes plus additional liquids as per the compliance schedule) identified in Attachment C in containers at the facility, subject to the terms of this permit.
2. The Permittee is prohibited from storing hazardous waste that is not identified in Attachment C, except as otherwise authorized by the U.S. EPA.

B. UNIT LOCATION The container handling and storage facility is located as shown in the site plan in Attachment B.

C. CONDITION OF CONTAINERS If a container holding hazardous waste is not in good condition (e.g., appreciable rusting, apparent structural defects) or if it begins to leak, the Permittee must transfer the hazardous waste from such container to a container that is in good condition or otherwise manage the waste in compliance with the conditions of this permit. 329 IAC 3.1-9; 40 CFR 264.171

D. COMPATIBILITY OF WASTE WITH CONTAINERS The Permittee must assure that the ability of the container to contain the waste is not impaired. 329 IAC 3.1-9; 40 CFR 264.172

E. MANAGEMENT OF CONTAINERS

1. The Permittee must manage containers as follows:
 - a. A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste. 329 IAC 3.1-9; 40 CFR 264.173(a)
 - b. A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak. 329 IAC 3.1-9 and 40 CFR 264.173(b)
 - c. Containers of 30 gallons or more must be stored so that they can be inspected for leaks and for deterioration caused by corrosion or other factors, without having to move the containers during the

inspection and must have adequate aisle space between rows (approximately 2 ½ feet) to facilitate inspection.

2. (a) Containerized hazardous waste or hazardous secondary materials either being transferred from one permitted unit to another (such as from container storage to tank storage) or being removed from one permitted unit followed by replacement back into that same unit shall remain outside of permitted units only for the minimum time necessary to either transfer the containers to a different storage unit or to remove the containers, perform the activities that required the staging to occur, and return the containers to a permitted storage unit. In no instance shall this time period exceed 12 hours. The containers will be managed in accordance with applicable conditions in Attachment D. Documentation of container movement from a permitted storage area to a staging area followed by placement into a permitted storage area will include the identification of the container, the date of movement, the time the first container was removed from permitted storage, the location of the staging area, and the time the first container was removed from the staging area and placed into permitted storage. This documentation shall be maintained for 30 days.

- (b) The Permittee shall ensure that transport vehicles loaded with non-processed hazardous waste for shipment off-site leave the facility (or contiguous property controlled by the Permittee) within 72 hours of the time the hazardous waste is first moved out of permitted storage areas for loading onto the transport vehicle. If the shipment is cancelled, the waste must be placed back into permitted storage within the original 72 hour period.

The Permittee will document the time the first container is placed into an outbound trailer. The document identifying the time will be attached to a copy of the outbound manifest and placed inside the loaded trailer.

- (c) The Permittee shall not have more than 756,250 gallons (including 346,060 gallons of liquid wastes plus additional liquids as per the compliance schedule) of containerized hazardous waste and hazardous secondary materials (excluding Tradebe-generated hazardous waste subject to the 90-day generator storage requirements) at the facility at any one time. The maximum capacity of each container storage area is listed in Table D-1, Attachment D. All containers of hazardous waste and hazardous secondary

materials at the facility shall be counted towards the permitted capacity, excluding Tradebe's generated waste, exempt scrap metal, and other exempt wastes.

- (d) Incoming hazardous secondary materials must be placed in permitted units within 3 operating days after entering the facility boundary (or contiguous property controlled by the permittee). Incoming hazardous waste from an off-site generator shall be placed in permitted units within 72 hours, not including non-operating days, of entering the facility boundary (or contiguous property controlled by the permittee) unless the permittee rejects all or part of an incoming shipment. In the case of rejected loads the permittee shall have an additional 60 days to ship the waste off-site to an alternate TSDF or to the generator, in accordance with the requirements of 40 CFR 264.72. During this timeframe the Permittee must ensure that the rejected load is maintained in a secure location and clearly labeled. An operating day is any 24 hour period during which at least a partial shift is worked by employees who process, treat, or place into storage hazardous waste at the facility.

All incoming dropped loaded trailers will be logged in by a member of the Permittee's Receiving Team or other designated individual; the log will be located in the Receiving Team's office. Information to the "Incoming Trailer Log" must be filled out immediately (within the hour) upon the truck entering the facility boundary (or contiguous property controlled by the Permittee). Included on the log will be the following information: Time and Date the trailer entered the Permittee's property; Trailer Number; Confirmation and initials of the person logging the trailer. The old logs will be kept for 30 days in the receiving office.

The requirement that incoming hazardous waste be placed in permitted units within 72 hours, not including non-operating days, of entering the facility boundary (or contiguous property controlled by the permittee) does not apply to Tradebe-generated waste (i.e., processed waste) that has been rejected by the designated facility. Rail cars containing Tradebe-generated waste that have been rejected by the designated facility are managed according to the applicable language contained in Attachment B. Other containers containing Tradebe-generated waste that have been rejected by the designated facility shall be managed pursuant to the generator requirements.

- F. CONTAINMENT The Permittee must construct, operate, and maintain the containment system as specified in Process Information, Attachment D, which is incorporated herein by reference. 329 IAC 3.1-9; 40 CFR 264.175
- G. INSPECTION The Permittee must inspect the container storage areas, at least weekly, to detect leaking containers and deterioration of containers and the containment system caused by corrosion or other factors. 329 IAC 3.1-9; 40 CFR 264.174
- H. SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE The Permittee shall not locate containers holding ignitable or reactive waste within 15 meters (50 feet) of the facility's property line, as required by 329 IAC 3.1-9 and 40 CFR 264.176. The railcars will not be required to be stored at least 50 feet from the facility's property line, as long as the land use of the property adjacent to the railcars does not change. Additionally, ignitable solids in containers may be stored within the 50-foot setback as specified in Condition VII.G and Attachment B.
- I. SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTE
1. Prior to placing incompatible waste or incompatible waste and materials in the same container, the Permittee must comply with 329 IAC 3.1-9 and 40 CFR 264.17(b) as specified in the Process Information, Attachment D. 329 IAC 3.1-9; 40 CFR 264.177(a)
 2. The Permittee must not place hazardous waste in an unwashed container that previously held an incompatible waste or materials. 329 IAC 3.1-9; 40 CFR 264.177(b)
 3. The Permittee must separate containers of incompatible wastes as indicated in the Process Information, Attachment D. 329 IAC 3.1-9; 40 CFR 264.177(c).
 4. The Permittee must document compliance with Permit Condition III.I.3. and place this documentation in the operating record (Permit Condition II.K.1.). 329 IAC 3.1-9; 40 CFR 264.17(c)
- J. CLOSURE REQUIREMENTS
1. At closure, all hazardous waste and hazardous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with hazardous waste or hazardous waste residues must be decontaminated or removed in

accordance with the Closure Plan, Attachment I.
329 IAC 3.1-9; 40 CFR 264.178

2. At closure, as throughout the operating period, unless the Permittee can demonstrate in accordance with 329 IAC 3.1-6 and 40 CFR 261.3(d) that the solid waste removed from the containment system is not a hazardous waste, the Permittee becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of 329 IAC 3.1 and 40 CFR 262 through 266. 329 IAC 3.1-9; 40 CFR 264.178

DRAFT

IV. TANK STORAGE CONDITIONS

A. WASTE IDENTIFICATION

1. The Permittee may store and/or treat a total volume of 201,007 gallons of wastes identified in Attachment C in tanks, subject to the terms of this permit:
2. The Permittee is prohibited from storing hazardous waste that is not identified in Permit Condition IV.A.1, except as otherwise authorized by the U.S. EPA.

B. LOCATION OF TANKS The tanks are located as shown in the site plan in Attachment B.

C. DESIGN OF TANKS The Permittee must construct, operate, and maintain all tanks as specified in the Tank Storage Plan, Attachment D, which is incorporated herein by reference. 329 IAC 3.1-9; 40 CFR 264.191 and 264.192

D. GENERAL OPERATING REQUIREMENTS

1. The Permittee must not place hazardous wastes in the tank system if they could cause the tank, its ancillary equipment, or a containment system to rupture, leak, corrode, or otherwise fail. 329 IAC 3.1-9; 40 CFR 264.194(a)

Hazardous waste or treatment reagents must not be placed in a tank system if they could cause the tank system to rupture, leak, corrode, or otherwise fail within the projected life expectancy of the tank, to which the hazardous waste or treatment reagent is regularly and routinely exposed. The projected life expectancy is the time period in which the tank shell thickness is reduced to a point where it no longer meets industrial standards. The Permittee must be able to document and demonstrate, upon inspection by Agency representatives, compliance with the following:

Demonstrate compliance with 40 CFR 264.194(a) for tanks by maintaining minimum design shell and bottom plate thicknesses or other tank structural integrity maintenance mechanism based on accepted industrial tank standards such as American Petroleum Institute (API), American Society of Mechanical Engineers (ASME) and Underwriters Laboratory (UL). Compliance may be demonstrated by any of the following methods:

- a. Routine and systematic tank wall thickness testing utilizing industrial standards and methodology conducted at a time interval of no more than 5 years between each testing.

- b. Valid corrosivity testing data confirming that the waste or reagents in the tank will not cause failure within the projected life, based on the projected maximum corrosion rate.
- c. Any other method which is determined to be essentially equivalent to either of the above methods and is an accepted industrial practice.

Tanks that fail any of the above test methods must be immediately removed from service and replaced, repaired or serviced.

2. The total normal venting capacity must be at least the sum of the venting requirements for solvent movement and thermal effect. The total inbreathing (vacuum) venting capacity and the total outbreathing (pressure) venting capacity must be the following as specified in the table below in cubic feet of free air per hour (CFH). The actual capacity of the vent must be determined by Section 1.5 of the API Standard 2000.

Tank	Inbreathing venting capacity (SCFH)	Outbreathing venting capacity (SCFH)
1R	301	319
4	298	316
5D-1	63	71
5R-1	23	41
6	960	979
7	80	98
18	460	479
19	460	479
20	444	463
21	460	479
22	460	479
23	460	479
29	496	514
HP24	88	107
52	287	306
53	287	306
54	287	306

3. The maximum input and output of the tank system must not exceed 120 gallons per minute.
4. The information contained in Permit Condition IV.D.2 and 3 is solely to determine venting capacity for tank design. The Permittee is not required to monitor for nor demonstrate compliance with the information in Permit Condition IV.D.2 and 3. Furthermore, Permit Condition IV.D.2 and 3 are not enforceable except for calculating the venting capacity for tank design.
5. The Permittee must prevent spills and overflows from the tank or containment systems using the methods described in Procedures to Prevent Hazards, Attachment F. 329 IAC 3.1-9; 40 CFR 264.194(b)

E. SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTES

1. The Permittee must not place ignitable or reactive waste in a tank system or in the secondary containment system, unless the procedures described in Attachment D are followed. 329 IAC 3.1-9; 40 CFR 264.198(a)
2. The Permittee shall document compliance with Permit Condition IV.E.1. as required by 329 IAC 3.1-9 and 40 CFR 264.17(c) and place this documentation in the operating record (Permit Condition II.K.1.).
3. The Permittee must comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon, as required in Tables 2-1 through 2-6 of the National Fire Protection Association's Flammable and Combustible Liquids Code. 329 IAC 3.1-9; 40 CFR 264.198(b)

F. SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES

1. The Permittee must not place incompatible wastes in the same tank system or place hazardous waste in a tank system that previously held an incompatible waste or material unless the procedures specified in Attachment D are followed. 329 IAC 3.1-9; 40 CFR 264.199(b)
2. The Permittee must document compliance with Permit Condition IV.F.1. and place this documentation in the operating record (Permit Condition II.K.1.). 329 IAC 3.1-9; 40 CFR 264.17(c)

G. CONTAINMENT AND DETECTION OF RELEASES

1. In order to prevent the release of hazardous waste or hazardous constituents to the environment, the Permittee must provide secondary containment as specified in the Tank Storage Plan, Attachment D, which is incorporated herein by reference. 329 IAC 3.1-9; 40 CFR 264.193
2. In the event of a leak or a spill from the tank system, from a secondary containment system, or if a system becomes unfit for continued use, the Permittee must remove the system from service immediately and complete the following actions (329 IAC 3.1-9; 40 CFR 264.196):
 - a. Stop the flow of hazardous waste into the system and inspect the system to determine the cause of the release.
 - b. Remove waste from the system within 24 hours of the detection of the leak to prevent further release and to allow inspection and repair of the system. If the Permittee finds that it will be impossible to meet this time period, notify the Commissioner and demonstrate that a longer time period is required.

If the collected material is a hazardous waste, it must be managed in accordance with all applicable requirements. The Permittee must note that if the collected material is discharged through a point source to U.S. waters or to a POTW, it is subject to requirements of the Clean Water Act. If the collected material is released to the environment, it may be subject to reporting under 40 CFR Part 302.
 - c. Contain visible releases to the environment. The Permittee must immediately conduct a visual inspection of all releases to the environment and based on that inspection: (1) prevent further migration of the leak or spill to soils or surface water and (2) remove and properly dispose of any visible contamination of the soil or surface water.
 - d. Close the system in accordance with the Closure Plan, Permit Attachment I, unless the following actions are taken:
 - i. For a release caused by a spill that has not damaged the integrity of the system, the Permittee must remove the released waste and make any necessary repairs to fully restore integrity of the system before returning the tank system to service.

- ii. For a release caused by a leak from the primary tank system to the secondary containment system, the Permittee must repair the primary system prior to returning it to service.
- e. For all major repairs to eliminate leaks or restore the integrity of the tank system, the Permittee must obtain a certification by an independent, qualified, registered professional engineer that the repaired system is capable of handling hazardous wastes without release for the intended life of the system before returning the system to service. Examples of major repairs are: installation of an internal liner, repair of a ruptured tank, or repair or replacement of a secondary containment vault.

H. INSPECTION SCHEDULES AND PROCEDURES

1. The Permittee must inspect the tank system, in accordance with Permit Attachment F.
2. The Permittee must inspect the overfill controls, in accordance with the schedule in Permit Attachment F. 329 IAC 3.1-9; 40 CFR 264.195(a)
3. The Permittee must inspect the following components of the tank system once each operating day (329 IAC 3.1-9; 40 CFR 264.195(b)):
 - a. Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;
 - b. Data gathered from monitoring equipment (e.g., pressure or temperature gauges) to ensure that the tank system is being operated according to its design; and
 - c. Construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system, to detect erosion or signs of releases of hazardous waste (e.g., wet spots).
4. The Permittee must document compliance with the above inspection requirements and place this documentation in the operating record for the facility. 329 IAC 3.1-9; 40 CFR 264.195(d)

I. RECORD KEEPING AND REPORTING

1. The Permittee must report to the Commissioner, within 24 hours of detection, when a leak or spill occurs from the tank system or secondary containment system to the environment. A leak or spill of one pound or less of hazardous waste immediately contained and cleaned-up need not be reported. If the Permittee has reported the release pursuant to 40 CFR Part 302, this report satisfies the requirements of this Permit Condition. 329 IAC 3.1-9; 40 CFR 264.196(d)
2. Within 30 days of detecting a release to the environment from the tank system or secondary containment system, the Permittee must report the following information to the Commissioner (329 IAC 3.1-9; 40 CFR 264.196(d)(3)):
 - a. Likely route of migration of the release;
 - b. Characteristics of the surrounding soil (including soil composition, geology, hydrogeology, and climate);
 - c. Results of any monitoring or sampling conducted in connection with the release. If the Permittee finds it will be impossible to meet this time period, provide the Commissioner with a schedule of when the results will be available before the required 30 day reporting period expires;
 - d. Proximity of downgradient drinking water, surface water, and populated areas; and
 - e. Description of response actions taken or planned.
3. The Permittee must submit to the Commissioner all certifications of major repairs within 7 days after returning the tank system to use. 329 IAC 3.1-9; 40 CFR 264.196(f)

J. CLOSURE REQUIREMENTS

1. At closure of a tank system, the Permittee must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, structures, and equipment contaminated with waste, and manage them as hazardous waste, unless the Permittee can demonstrate in accordance with 329 IAC 3.1-6 and 40 CFR 261.3(d) that

the solid waste is not a hazardous waste. The procedures in the Closure Plan, Attachment I must be followed. 329 IAC 3.1-9; 40 CFR 264.197(a)

2. At closure or replacement of a tank or tanks within the tank system, the Permittee must remove or decontaminate all waste residues and contaminated containment system components (liners, etc.), and manage them as hazardous waste, unless the Permittee can demonstrate in accordance with 329 IAC 3.1-6 and 40 CFR 261.3(d) that the solid waste is not a hazardous waste. The procedures in the Closure Plan, Attachment I must be followed.
3. If the Permittee demonstrates that not all contaminated soils can be practicably removed or decontaminated as required by Permit Condition IV.J.1, then the Permittee must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (329 IAC 3.1-9, 40 CFR 264.310). In addition, for the purposes of closure, post-closure and financial responsibility, such a tank system is then considered to be a landfill and the Permittee must meet all of the requirements for landfills specified in 329 IAC 3.1-9, 329 IAC 3.1-15 and 40 CFR 264 Subpart G. 329 IAC 3.1-9; 40 CFR 264.197(b)

V. AIR EMISSION STANDARD CONDITIONS

A. PROCESS VENTS

The Permittee must comply with all applicable requirements of 40 CFR Part 264, Subpart AA, regarding air emission standards for process vents as set forth in the attached Process Description, Attachment D, Appendix D-15.

B. EQUIPMENT LEAKS

The Permittee must comply with all applicable requirements of 40 CFR Part 264, Subpart BB, regarding air emission standards for equipment as set forth in the attached Process Description, Attachment D, Appendix D-15.

C. TANKS, SURFACE IMPOUNDMENTS AND CONTAINERS

The Permittee must comply with all applicable requirements of 40 CFR Part 264, Subpart CC, regarding air emission standards for (tanks, surface impoundments and/or containers). FOR TANKS: Air pollutant emissions from tanks shall be controlled in accordance with Tank Level 2 controls as set forth in the Process Description, Attachment D, Appendix D-15. 40 CFR 264.1084

FOR CONTAINERS: Air pollutant emissions from containers shall be controlled in accordance with Container Levels 1 and 2 standards as set forth in the Process Description, Attachment D, Appendix D-15. 40 CFR 264.1086

D. RECORDKEEPING

The Permittee must comply with all applicable recordkeeping and reporting requirements described in 40 CFR Subparts AA (40 CFR 264.1035, 264.1036), BB (40 CFR 264.1064, 264.1065) and CC (40 CFR 264.1089, 264.1090).

E. DUTY TO COMPLY WITH FUTURE REQUIREMENTS

The Permittee must comply with all self-implementing provisions of any future air regulations promulgated by RCRA, as amended by HSWA.

VI. CORRECTIVE ACTION CONDITIONS

A. STANDARD REQUIREMENTS

1. Corrective Action At The Facility

In accordance with Section 3004(u) of RCRA (IC13-22-2-5) and the regulations promulgated pursuant thereto, the Permittee must institute Corrective Action as necessary to protect human health and the environment for all releases of hazardous waste(s) and hazardous constituent(s) from any solid waste management unit (SWMU) or area of concern (AOC) at the facility, regardless of the time the waste was placed in such units.

The Permittee may use the principles and procedures set forth in IDEM's 2012 Remediation Closure Guide, and all revisions and additions thereto, or other risk-based methodologies approved by IDEM's Office of Land Quality Permits Branch, as the basis for selecting risk-based endpoints that will be used for the investigations, studies, interim measures, and corrective measures under the permit. The Permittee must perform all such work in a manner consistent with, at a minimum, the Remediation Closure Guide.

2. Corrective Action Beyond The Facility Boundary

In accordance with Section 3004(v) of RCRA (IC 13-22-2-5) and the regulations promulgated pursuant thereto, the Permittee must implement Corrective Action(s) beyond the facility property boundary, where necessary to protect human health and the environment, unless the Permittee demonstrates to IDEM's satisfaction that, despite the Permittee's best efforts, the Permittee was unable to obtain the necessary permission to undertake such actions.

The Permittee is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be addressed under the RCRA Facility Investigation, Corrective Measures Study, and Corrective Measures Implementation phases, as determined to be necessary on a case-by-case basis.

3. Notification

a. Field Activities

The Permittee must notify IDEM at least 7 days before engaging in any field activities, such as well drilling, installation of equipment, or sampling. At IDEM's request, the Permittee must provide IDEM or its authorized

representative split samples of all samples collected by the Permittee pursuant to this permit. Similarly, at the Permittee's request, IDEM will allow the Permittee or its authorized representatives to take split or duplicate samples of all samples collected by IDEM under this permit.

b. Submittals

One hard copy and one PDF copy on CD of all reports, plans, and other submissions relating to or required by this permit must be sent to:

Indiana Department of Environmental Management
Office of Land Quality
Hazardous Waste Permit Section
IGCN 1101
100 N. Senate Avenue
Indianapolis, IN 46204

B. IDENTIFICATION OF SWMUs

1. Definitions

- a. "Area of Concern (AOC)" means a unit or area, existing or historical, that could potentially produce unacceptable exposures or be a potential source of ground water contamination, but the unit or area does not meet the definition of a solid waste management unit.
- b. "Facility" means all contiguous property under the control of the owner/operator of a facility seeking a permit under RCRA Subtitle C.
- c. "Hazardous waste," as defined in IC 13-11-2-99, means a solid waste or combination of solid wastes that may cause or significantly contribute to an increase in: mortality, serious irreversible illness, or an incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment. This term is further defined in 40 CFR Part 261.3.
- d. "Hazardous constituent" means any constituent identified in Appendix VIII of 40 CFR Part 261, or any constituent identified in Appendix IX of 40 CFR Part 264.
- e. "Release" means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of hazardous wastes or hazardous constituents into the

environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing hazardous wastes or hazardous constituents.

- f. "Solid waste" means any garbage, refuse, sludge, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or from community activities. This term is further defined in 40 CFR Part 261.2.
- g. "Solid Waste Management Unit (SWMU)" means any discernable unit, permitted or unpermitted, existing or historical, at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at a facility at which solid wastes have been routinely and systematically released.

2. SWMUs and AOCs Requiring Corrective Action

Based on the information contained in the administrative record, corrective action is not currently required at any SWMUs and AOCs. A map showing the location of all known SWMUs and AOCs and a complete list of all SWMUs and AOCs is given in Attachment J.

C. NEWLY IDENTIFIED SWMUs OR RELEASES

1. Notification Requirements

The Permittee must notify IDEM, within 30 days of discovery, of the following information for any new SWMU identified at the facility, in accordance with 329 IAC 3.1-13-1 and 40 CFR 270.14(d):

- a. the location of the unit on the site topographic map;
- b. designation of the type of unit;
- c. general dimensions and structural description (supply any available drawings);
- d. when the unit was operated; and
- e. specifications of all waste(s) that have been managed at the unit.

2. Release Information

The Permittee must submit to IDEM, within 30 days of discovery, all available information pertaining to any release of hazardous waste(s) and hazardous constituent(s) from any new or existing SWMU.

3. Corrective Action

IDEM will review the information provided as required in the above permit conditions, and may as necessary, require further investigations or corrective measures. The Permittee must submit a written RFI Work Plan to the Section Chief of the Hazardous Waste Permit Section in accordance with Condition VI.D.2.

D. CORRECTIVE ACTION ACTIVITIES

The major tasks and required submittal dates are shown below. Additional tasks and associated submittal dates may also be specified in the Corrective Action Activities Schedule (Condition VI.F.).

1. Interim Measures (IM)

- a. The Permittee may undertake interim measure activities to prevent or minimize the further spread of contamination while long-term remedies are pursued. An IM Work Plan must be submitted to IDEM for approval before the Permittee initiates any remedial activity. The interim measure(s) must be capable of being integrated into any long-term solution at the facility.
- b. In the event the Permittee identifies an immediate threat to human health or the environment, the Permittee must immediately notify the Section Chief, as listed in Permit Condition I.D.18, orally and in writing within 7 days summarizing the immediacy and magnitude of the potential threat to human health or the environment.

Upon receiving this information, IDEM will determine if an IM Work Plan is necessary. If one is necessary, the Section Chief will send a notice to the Permittee requiring the submission of an IM Work Plan. Within 21 days after receiving this notice, the Permittee must submit to the Section Chief a work plan for approval that identifies the interim measure(s).

The work plan should be consistent with and integrated into any long-term solution at the facility. In addition, the following Interim Measure schedule must be initiated:

- i. Within 5 days of identifying an immediate threat to human health or the environment, the Permittee must provide an alternate water supply to parties that have a contaminated water supply well;
- ii. Within 7 days of identifying an immediate threat to human health or the environment, the Permittee must submit a report to the Section Chief detailing the activity pursued and a plan for further Interim Measures activity;
- iii. Within 7 days following the Section Chief's transmission of comments, the Permittee must revise the plan in accordance with the comments; and
- iv. Within 7 days following IDEM's approval or modification of the plan, the Permittee must implement the revised plan in accordance with the schedule therein.

2. RCRA Facility Investigation (RFI)

The Permittee must conduct an RFI to thoroughly evaluate the nature and extent of the release of hazardous waste(s) and hazardous constituent(s) from all SWMUs and AOCs identified as requiring an RFI.

a. RFI Work Plan

The Permittee must submit a written RFI Work Plan to the Section Chief within 90 days after written notification by the Section Chief that further investigation is necessary.

IDEM will approve, modify and approve, or disapprove and provide comments on the work plan in writing to the Permittee. Within 60 days of receipt of such comments, the Permittee must provide a response to IDEM's comments.

b. RFI Implementation

Within 30 days of IDEM's written approval of the RFI Work Plan, the Permittee must implement the plan according to the terms and schedule contained therein.

c. RFI Report

Within 90 days after the completion of the RFI, the Permittee must submit an RFI Report to the Section Chief. The RFI Report must describe the procedures, methods, and results of the RFI. The report must contain adequate information to support further corrective action decisions at the facility. After the Permittee submits the RFI Report, IDEM will either approve or disapprove the report in writing. If IDEM disapproves the report, the Section Chief will notify the Permittee in writing of the deficiencies. The Permittee has 60 days after receipt of IDEM's comments to submit a revised RFI Report to the Section Chief.

3. Determination of No Further Action

a. Permit Modification

After completion of the RFI, and based on its results and other relevant information, the Permittee may submit an application to the Section Chief for a permit modification under 40 CFR 270.42 to terminate the corrective action tasks of the Corrective Action Activities Schedule for all or a portion of the facility. Tasks identified in Permit Condition VI.F. for the SWMUs, solid waste management areas (a group of SWMUs in an area to be addressed as a single unit), and/or the AOCs identified in the modification (for a determination of no further action) will be stayed pending a decision by IDEM. This permit modification must demonstrate that there are no releases of hazardous waste(s), including hazardous constituents, from SWMUs or AOCs that are the subject of the modification at the facility that pose a threat to human health or the environment.

If, based upon review of the Permittee's request for a permit modification, the results of the completed RFI, and other information, IDEM determines that releases or suspected releases that were investigated either are nonexistent or do not pose a threat to human

health or the environment, IDEM will grant the requested modification.

b. Further Investigations

A determination of no further action will not preclude IDEM from requiring further investigations, studies, or remediation at a later date, if new information (including different risk assumptions) or subsequent analysis indicates that a release or likelihood of a release from a SWMU or AOC at the facility is likely to pose a threat to human health or the environment. In such a case, IDEM will initiate a modification to the Corrective Action Activities Schedule to rescind the determination made in accordance with the above permit condition. Additionally, IDEM may determine that there is insufficient information on which to base a determination, and may require the Permittee to perform additional investigations as needed to generate the needed information.

4. Corrective Measures Study (CMS) and Remedy Selection

If IDEM determines, based on the results of the RFI and other relevant information, that corrective measures are necessary, the Section Chief will notify the Permittee in writing that the Permittee must conduct a CMS. The purpose of the CMS is to develop and evaluate the corrective action alternative(s) that will satisfy the performance objectives specified by IDEM. The CMS must be conducted within 60 days of notification by the Section Chief that the CMS is required. This period of time may be extended by the Section Chief if necessary to adequately complete the CMS. Note that this process can be significantly shortened by the selection of presumptive remedies (i.e., remedies that are known to be effective). Additional tasks and associated submittal dates may also be specified in the Corrective Action Activities Schedule (Condition VI.F.).

a. CMS Report

Within 60 days after the completion of the CMS, the Permittee must submit a CMS Report to the Section Chief. The CMS Report must summarize the results of the investigations for each remedy studied and must include an evaluation of each remedial alternative. After the Permittee submits the CMS Report, IDEM will either approve, modify and approve, or disapprove the Report. If IDEM disapproves the report, the Section Chief will notify the Permittee in writing of the deficiencies. The Permittee has 60 days after receipt of IDEM's

comments to submit a revised CMS Report to the Section Chief. The CMS Report, as approved, becomes an enforceable condition of this permit.

b. CMS Remedy Selection

IDEM will approve a corrective measure for implementation based on the following factors. The corrective measure selected for implementation must: (1) be protective of human health and the environment; (2) attain media cleanup standards; (3) control the source(s) of releases so as to reduce or eliminate further releases of hazardous waste(s) (including hazardous constituent(s)); (4) minimize the transfer of contamination from one environmental medium to another; and (5) comply with all applicable standards for management of wastes.

If two or more of the corrective measures studied meet the threshold criteria set out above, IDEM will choose among alternatives for implementation by considering remedy selection factors including: (1) long-term reliability and effectiveness; (2) the degree to which the corrective measure will reduce the toxicity, mobility or volume; (3) the corrective measure's short-term effectiveness; (4) the corrective measure's implementability; and (5) the relative cost associated with the alternative. In selecting the corrective measure(s), IDEM may also consider such other factors as may be presented by site-specific conditions.

5. Permit Modification

Within 30 days of IDEM's approval of a corrective measure, the Permittee will initiate a permit modification, pursuant to 40 CFR 270.41 or 40 CFR 270.42, respectively, for the implementation of the corrective measure(s) selected. No permit modification fees are required for any modifications submitted under this condition.

6. Corrective Measures Implementation (CMI)

- a. If the corrective measure(s) recommended in the Corrective Measures Study Report is (are) not the corrective measure(s) approved by IDEM after consideration of public comments, the Section Chief will inform the Permittee in writing of the reasons for

such decision. Within 30 days after the effective date of the permit modification, the Permittee must implement the corrective measure(s).

b. Financial Assurance

As part of the permit modification of this permit to incorporate the CMI, the Permittee must provide financial assurance in the amount specified in the IDEM-approved CMS Report as required by 40 CFR 264.101(b) and (c).

7. Incorporation of Plans and Reports

All approved plans and reports prepared for this permit will be incorporated into this permit on the date the Section Chief or his/her designee approves such plan or report.

E. DISPUTE RESOLUTION

1. If IDEM disapproves or modifies and approves any submission required by Condition VI of the permit, IDEM will provide the Permittee with a written notice setting forth the reasons for the disapproval or modification and approval.
2. If the Permittee disagrees, in whole or in part, with any written decision concerning IDEM's disapproval or modification and approval of any submission required by Condition VI of the permit, the Permittee must notify IDEM of the dispute. The Permittee and IDEM must informally, and in good faith, endeavor to resolve the dispute.
3. If the Permittee and IDEM cannot resolve the dispute informally, the Permittee may pursue the matter formally by submitting a written statement of position to the Commissioner or his/her designee, within 28 days of receipt of IDEM's written disapproval or modification and approval. The Permittee's statement of position must set forth the specific matters in dispute, the position that the Permittee asserts should be adopted as consistent with the requirements of the permit, the basis for the Permittee's position, and must include any supporting documentation. If the Permittee fails to follow any of the requirements contained in this paragraph, then it will have waived its right to further consideration of the disputed issue.

IDEM's decision to discontinue further consideration under this condition will constitute a final agency action, which is subject to review under IC 4-21.5.

4. IDEM and the Permittee will have an additional 14 days from the date of the Commissioner's receipt of the Permittee's statement of position to meet or confer to attempt to resolve the dispute. This time period may be extended by mutual agreement of the Permittee and IDEM. If agreement is reached, the Permittee must submit a revised submission, if necessary, and must implement the submission in accordance with such agreement.
5. If IDEM and the Permittee are not able to reach agreement within the 14 day period, or such longer period corresponding to IDEM's extension for good cause, the Permittee may submit any additional written arguments and evidence not previously submitted, or further explain any arguments or evidence previously submitted, to the Commissioner. Based on the record, the Commissioner, or delegate, will thereafter issue a written decision that will include a response to the Permittee's arguments and evidence. This written decision will constitute a final agency action, which is subject to review under IC 4-21.5.
6. Notwithstanding the invocation of this dispute resolution procedure, the Permittee must proceed to take any action required by those portions of the submission and of the permit that IDEM determines are not substantially affected by the dispute. The activity schedule for those portions of the submission and of the permit which are substantially affected by the dispute will be suspended during the period of dispute resolution.

F. CORRECTIVE ACTION ACTIVITIES SCHEDULE FOR NEWLY IDENTIFIED SWMUs

<u>Activity</u>	<u>Due Date</u>
1. IM Work Plan	21 days after notice by the Section Chief or his/her designee
2. RFI Work Plan	90 days after notice by the Section Chief or his/her designee
3. Notification of newly identified SWMUs	30 days after discovery

<u>Activity</u>	<u>Due Date</u>
4. RFI Work Plan for newly identified SWMUs	90 days after receipt of Section Chief's notification
5. RFI Work Plan modification	60 days after receipt of Section Chief's comments
6. RFI Implementation	30 days after RFI Work Plan approved
7. RFI Report	90 days after completion of RFI
8. RFI Report Modification	60 days after receipt of Section Chief's comments
9. Progress Reports on Tasks I through IV (See Corrective Action Scope of Work)	Semi-annually; to coincide with ground water reporting if possible
10. CMS Report	60 days after receipt of Section Chief's notification
11. CMS Report Modification	60 days after receipt of Section Chief's comments
12. Permit Modification for Corrective Measure Implementation	30 days after receipt of Section Chief's notification (modification may be a Class 1, 2, or 3 at Section Chief's discretion)
13. CMI Program Plan	30 days after effective date of permit modification
14. CMI Program Plan Modification	30 days after receipt of Section Chief's comments
15. CMI Reports	Semi-annually; to coincide with ground water reporting if possible
16. CMI Report Modification	30 days after receipt of Section Chief's comments

<u>Activity</u>	<u>Due Date</u>
17. Operation and Maintenance Progress Reports	Semi-annually; to coincide with ground water reporting if possible

IDEM may, at the facility's request, grant extensions to the time frames listed in this section. IDEM-approved time extensions will not require a permit modification.

G. FORCE MAJEURE

"Force Majeure," for purposes of this Permit, is defined as any event arising from causes beyond the control of the Permittee that delays or prevents the performance of any obligation under this Permit despite Permittee's best efforts to fulfill the obligation. The requirement that the Permittee exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event as it is occurring and best efforts to address the effects of any potential force majeure event as it is occurring and following the potential force majeure event, such that the delay is minimized to the greatest extent possible. "Force Majeure" does not include financial inability to complete the work required by this Permit nor any increases of costs to perform the work.

The Permittee must notify IDEM by calling within 3 calendar days and by writing no later than 7 calendar days after any event which the Permittee contends is a force majeure. Such notification must describe the anticipated length of the delay, the cause or causes of the delay, the measures taken or to be taken by the Permittee to minimize the delay, and the timetable by which these measures will be implemented. The Permittee must include with any notice all available documentation supporting its claim that the delay was attributable to a force majeure. Failure to comply with the above requirements will preclude the Permittee from asserting any claim of force majeure for that event. The Permittee will have the burden of demonstrating that the event is a force majeure. The decision of whether an event is a force majeure will be made by IDEM. Said decision will be communicated to the Permittee.

If a delay is attributable to a force majeure, IDEM will extend, verbally or in writing, the time period for performance under this Permit by the amount of time that is attributable to the event constituting the force majeure. Any final determination by IDEM under this section will be reviewable under IC 4-21.5. However, if the Permittee appeals an IDEM decision concerning force majeure, such appeal will not toll the accrual of penalties during the review of that appeal.

VII. COMPLIANCE SCHEDULE CONDITIONS

- A. Within thirty (30) days of the effective date of this permit, provide the anticipated construction date of all of the proposed container storage area and tank systems. If the anticipated construction date is more than 365 days from the effective date of this permit, provide an annual update by December 31 of each year regarding the status of these units until completion of Conditions VII. B below.
- B. For the proposed container storage areas for solids only (Area 4 South Pad – Solids, Area 7a5, Area 7a6 Apron, SDS I Shredder Room, and Area 10), and for solids and liquids (Area 4 South Pad – Liquid and Area 5 North Pad), the Permittee must comply with the following:
1. Fifteen (15) days prior to beginning construction, notify IDEM of the intended construction start date.
 2. Within fifteen (15) days of completion of construction of each container storage area and its secondary containment system, as applicable, submit to IDEM:
 - a. A letter, pursuant to Permit Condition I.D.11, confirming that the container storage area was constructed in accordance with Attachment D of this Permit.
 - b. Updated financial assurance for the closure cost of the proposed unit (for all areas except for Area 4 South Pad (both) and Area 5 North Pad).
 3. The Permittee may begin storing hazardous waste in these container storage areas, and the maximum permitted capacity for the storage of free liquids in containers will be increased as per the following table if:

Container Storage Area	Liquids (gallons)
Area 4 South Pad-Liquid	10,560
Area 5 North Pad	15,840

- a. the Permittee has received approval from IDEM for the installation of the container storage area and the applicable secondary containment system; or,
- b. fifteen (15) days has passed since the submittal of the letter specified in Condition VII. B.2 without any indication from IDEM of its plans to inspect or request additional information on the container storage area and its secondary containment system.



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

March 3, 2017

Dear Interested Party:

Re: Draft Hazardous Waste Management
Permit Renewal
Tradebe Treatment and Recycling, LLC
East Chicago, Indiana
IND000646943

Enclosed is a copy of the public notice that appeared on March 3, 2017 in the Times Media. The Indiana Department of Environmental Management (IDEM) is announcing the availability for public review of a draft permit renewal, pursuant to Rule 329 IAC 3.1 and 40 CFR Part 264, for Tradebe Treatment and Recycling, LLC (Tradebe) to continue to operate a hazardous waste storage and treatment facility at 4343 Kennedy Avenue, East Chicago, Indiana. IDEM is inviting public comments on the draft permit.

The draft permit specifies the conditions under which the facility must manage hazardous waste in order to maintain compliance with the State and Federal statutes and rules.

Included for your information is a copy of the Fact Sheet. The draft permit is available for public inspection at the East Chicago Public Library, 2401 E. Columbus Dr., East Chicago, Indiana. The documents can also be accessed via IDEM's Virtual File Cabinet (VFC) at: www.IN.gov/idem/6953.htm. VFC permit document numbers are:

Permit Application 80330135, 08378160, 80393027, 80405948

Draft Permit Conditions 80427223

Permit Attachments:

A 80427224 B 80427225 C 80427226 D 80427227 F 80427228
G 80427229 H 80427230 I 80427231 J 80427232

IDEM is accepting written comments on the draft permit for Tradebe. Comments must be postmarked by April 17, 2017 and should be sent to Ms. Ruth Jean at rjean@idem.IN.gov or the following address:

Indiana Department of Environmental Management
Office of Land Quality
Hazardous Waste Permit Section
IGCN 1101
100 North Senate Avenue
Indianapolis, IN 46204

Interested Party
Page Two

Before taking final action on the permit application, the IDEM will give full consideration to all significant and relevant comments regarding this permit decision.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey L. Sewell". The signature is stylized with a large, looped "J" and "S".

Jeffrey L. Sewell, Chief
Permits Branch
Office of Land Quality

RAJ/gjo

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
PUBLIC NOTICE

DATE OF NOTICE: March 3, 2017
COMMENTS DUE: April 17, 2017

The Indiana Department of Environmental Management (IDEM) has received a hazardous waste permit renewal request from:

Tradebe Treatment and Recycling, LLC
4343 Kennedy Ave., East Chicago, Indiana
IND000646943

Tradebe operates a commercial hazardous waste storage and treatment facility. The facility receives a variety of wastes which include hazardous and non-hazardous wastes. This permit will allow Tradebe to continue with storage and treatment of hazardous wastes in containers and tanks.

IDEM has reviewed the permit application, and has drafted a proposed permit. The draft permit describes how the facility must manage hazardous waste in order to comply with State and Federal statutes and rules. A copy of the permit renewal application, draft permit, and Fact Sheet are available for your review at:

- East Chicago Public Library, 2401 E. Columbus Dr., East Chicago, IN
- IDEM Virtual File Cabinet at: www.IN.gov/idem/6953.htm

IDEM is providing the public an opportunity to submit written comments and/or request changes to the proposed permit conditions.

You may request that IDEM hold a public hearing. At a hearing, you would have an opportunity to submit written comments, ask questions, make statements, and otherwise discuss any concerns about the permit with IDEM staff. If a public hearing is held, IDEM will make a separate announcement of the date, time, and location of that hearing/meeting 30 days in advance.

Written comments with supporting documentation, or a written request for a public hearing, should be sent to Ms. Ruth Jean at rjean@idem.IN.gov or the following address:

Indiana Department of Environmental Management
Office of Land Quality
Hazardous Waste Permit Section
IGCN 1101
100 North Senate Avenue
Indianapolis, IN 46204

IDEM will respond to all relevant comments and specify which provisions of the draft permit were changed, if any. To receive the Notice of Decision, please make a written request to Ruth Jean at the address above.

If you have any questions about the permit or public notice process, please contact Ruth Jean (317) 232-3398 or rjean@idem.IN.gov.

FACT SHEET

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT



Hazardous Waste Management Permit Renewal

Tradebe Treatment and Recycling, LLC East Chicago, Indiana

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

March 3, 2017

The Indiana Department of Environmental Management (IDEM) has prepared this fact sheet to inform the public of the process involved in issuing a Hazardous Waste Management Permit Renewal to Tradebe Treatment and Recycling, LLC (Tradebe).

The Resource Conservation and Recovery Act (RCRA), passed in 1976, regulates the management of hazardous waste. In the State of Indiana, IDEM is authorized by the Indiana Environmental Statute, IC 13-22, to administer the hazardous waste permit program and related hazardous waste management requirements. Any facility that treats, stores, and/or disposes of hazardous waste in Indiana is required to obtain a hazardous waste management permit. In addition, any hazardous waste facility receiving a permit is required to provide corrective action for all releases of hazardous waste or of hazardous waste constituents from any solid waste management unit on-site.

Facility Description

Tradebe operates a commercial hazardous waste storage and treatment facility at 4343 Kennedy Avenue, East Chicago, Indiana. The facility receives a variety of wastes which include hazardous and non-hazardous wastes. The purpose of this permit renewal is to continue to allow the storage and treatment of hazardous wastes in containers and tanks. Methods of treatment include, but are not limited to, accumulation, repacking, blending, mixing, bulking, neutralization, and transferring of wastes to off-site facilities for subsequent recovery, reuse, treatment and/or disposal. Twenty-seven (27) container storage areas storing a total of 756,250 gallons of hazardous waste will be permitted for storage and/or treatment. Additionally, 17 tanks will be utilized for storage and/or treatment of 201,007 gallons of hazardous waste.

IDEM's Role

IDEM staff review the permit application; prepare the draft permit and the public notice; respond to any comments received during the public comment period and issue the final permit decision. The permit contains the following items:

Permit Conditions

I. Standard Conditions: These conditions are of a general nature and are required for all facilities that manage hazardous waste under a RCRA permit.



A State that Works

An Equal Opportunity Employer

Recycled Paper

ED_002099_0000333-00005

II. General Facility Conditions: These conditions are also general in nature and required for all facilities, but are more specific in determining operating requirements.

III. Container Storage Conditions: These conditions include waste identification, container management, secondary containment, and inspection requirements.

IV. Tank Storage Conditions: These conditions include waste identification, tank location and design, operating requirements, secondary containment, and inspection requirements.

V. Air Emission Standard Conditions: These conditions address compliance with 40 CFR Part 264, Subpart BB, for air emissions from equipment at hazardous waste facilities.

VI. Corrective Action Conditions: These conditions provide for the investigation and remediation of any releases from a Solid Waste Management Unit (SWMU) or Area of Concern (AOC). These conditions also require owners and operators to provide information, including sampling, to IDEM to support whether or not a release has occurred.

VII. Compliance Schedule Conditions: These conditions specify a schedule leading to compliance with the Indiana Hazardous Waste Rules.

Permit Attachments

Attachment A - Part A Application: The Part A Application details the facility location, ownership, U.S. EPA identification number, type of business, type and quantity of hazardous waste managed and the type of hazardous waste management units at the facility.

Attachment B - Facility Description: This attachment provides general information regarding the site and surrounding land.

Attachment C - Waste Characteristics/Waste Analysis Plan: This attachment contains the Waste Analysis Plan, which describes, in detail, the procedures to be used by the facility to identify the hazardous wastes to be handled on-site. The Plan includes regulatory analytical methods, procedures for physical waste identification, and procedures to ensure the proper acceptance of off-site waste.

Attachment D - Process Information: This attachment describes, in detail, the management practices the facility will utilize to ensure safe and proper storage of hazardous waste in containers and tanks. The Plan includes storage and treatment handling procedures, inspection procedures and schedules, and secondary containment requirements.

Attachment E - Ground Water Monitoring: Ground water monitoring is not required for this facility.

Attachment F - Procedures to Prevent Hazards: This attachment contains the security measures, and preparedness and prevention procedures to ensure the safety of the workers on-site, as well as to prevent unauthorized access. This section is closely related to the Contingency Plan and Inspection Plan.

Attachment G - Contingency Plan: The Contingency Plan describes the actions facility personnel will take in response to fires, explosions, or any unplanned sudden or non-sudden

release of hazardous waste or hazardous waste constituents to the air, soil, or water at the facility.

Attachment H - Personnel Training: This attachment describes the training requirements for personnel working with hazardous waste at the facility.

Attachment I - Closure Plan: The Closure Plan describes, in detail, the activities and procedures required to ensure that the hazardous waste management units have been closed in accordance with 329 IAC 3.1. This attachment also describes the hazardous constituents of concern and the clean-up levels.

Attachment J - Corrective Action for Solid Waste Management Units (SWMUs): This attachment details the facility's obligation to notify IDEM of SWMUs, and information pertaining to releases from any SWMUs. It also describes current conditions at the facility, and how the facility will investigate each SWMU and AOC for releases of hazardous waste(s) and hazardous constituents(s).

Public Participation

The public comment period for this operating permit renewal began on the date of the public notice, March 3, 2017, and ends on April 17, 2017. The official public notice was published on March 3, 2017, in the Times Media, Munster, Indiana. Written comments with supporting documentation should be mailed to Ms. Ruth Jean at the following address:

Indiana Department of Environmental Management
Office of Land Quality
Hazardous Waste Permit Section
IGCN 1101
100 North Senate Avenue
Indianapolis, IN 46204

You may request that IDEM hold a public hearing. At a hearing, you would have an opportunity to submit written comments, ask questions, make statements, and otherwise discuss any concerns about the permit renewal with IDEM staff. If a public hearing is held, IDEM will make a separate announcement of the date, time, and location of that hearing/meeting 30 days in advance.

Questions may be directed to Ms. Ruth Jean with IDEM's Permits Branch at (317) 232-3398 or rjean@idem.IN.gov.

For More Information

Copies of the draft permit renewal are available for public review at the East Chicago Public Library, 2401 E. Columbus St., East Chicago, Indiana, and on IDEM's Virtual File Cabinet at: www.IN.gov/idem/6953.htm.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 Ross Avenue
Dallas, Texas 75202-2733

2 MAY 2016

Mr. J.D. Head
Fritz, Byrne, Head & Fitzpatrick, PLLC
221 West 6th Street
Suite 960
Austin, Texas 78701

Dear Mr. Head:

Thank you for your October 30, 2015 letter requesting clarification of the hazardous waste regulatory standards for thermal desorption units (TDUs) installed at RCRA treatment, storage, and disposal facilities (TSDFs). I apologize for the delay in responding to your request. In your scenario, the TDU reclaims oil from oil bearing hazardous wastes generated by petroleum refining, production, or transportation practices. You describe a TDU as a device that heats solid material to vaporize, remove, and separate organic constituent materials from solids. In the scenario you describe at a TSDF, the separated organic constituents are typically condensed and recovered as a liquid oil. The TDU process also generates a vent gas after the condensing stream.

Your inquiry also references 40 C.F.R. § 261.6(a)(3)(iv)(C)¹, which provides that:

Oil reclaimed from oil-bearing hazardous waste from petroleum refining, production, or transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the used oil specification under 40 C.F.R. § 279.11 is not subject to regulation under 40 C.F.R. Parts 262 – 268, 270, or 40 C.F.R. Part 124, and is not subject to the notification requirements of Section 3010 of RCRA.

If the above conditions are met, then the reclaimed oil can be burned as a non-hazardous fuel. If the oil-bearing hazardous waste is not from petroleum refining, production, or transportation practices, then the reclaimed oil is subject to RCRA regulation.

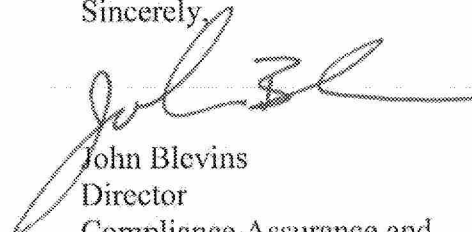
If a TDU combusts all or a portion of the vent gas, combustion of the TDU vent gas from RCRA hazardous waste or recyclable materials [40 C.F.R. § 261.6(a)(1)] is considered thermal treatment that is regulated by RCRA. The material being treated (oil-bearing hazardous waste) is already a hazardous waste. Heating hazardous wastes to a gaseous state is subject to regulation under RCRA as treatment of hazardous waste, and thermal treatment after a material becomes a hazardous waste is fully regulated under RCRA. 54 Fed. Reg. 50968, 50973 (December 11, 1989). Thus, thermal treatment of the vent gas requires a RCRA permit.

¹ Since you did not reference a specific State in which your client may operate a TDU, this letter cites to the applicable federal regulations. If the State has an authorized RCRA program, the corresponding state regulation would be applicable.

If the vent gas is combusted in the combustion chamber of the TDU, then a permit under 40 C.F.R. Part 264, Subpart O is required, because the TDU would meet the definition of incinerator in 40 C.F.R. § 260.10 (an enclosed device that uses controlled flame combustion). If, on the other hand, the vent gas is vented to and combusted in a thermal oxidizing unit (TOU), the permitting authority may be able to permit the entire unit (TDU and TOU) as a miscellaneous unit under 40 C.F.R. Part 264, Subpart X. A RCRA permit would be required even if the facility is operating as a RCRA exempt recycling activity under 40 C.F.R. § 261.6(a)(3)(iv)(C). If the permitting authority decides to issue a 40 C.F.R. Part 264, Subpart X permit, the permitting authority is required to include in the permit requirements from 40 C.F.R. Part 264, Subparts I through O, AA, BB, and CC, 40 C.F.R. Part 270, 40 C.F.R. Part 63, Subpart EEE, and 40 C.F.R. Part 146 that are appropriate for the miscellaneous unit being permitted as required in 40 C.F.R. § 264.601. The decisions as to what appropriate requirements would be included in the permit would be left to the permitting authority. However, EPA would expect that the permit conditions would be similar to those set forth in the enclosed Consent Agreement and Final Order, In Re: US Ecology Texas, Inc. and TD*X Associates, LP, EPA Docket Nos. RCRA-06-2012-0936 and RCRA-06-2012-0937, filed October 4, 2012.

If you have any questions, please feel free to contact Guy Tidmore of my staff at (214) 665-3142 or via e-mail at tidmore.guy@epa.gov.

Sincerely,



John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

Cc: Penny Wilson, ADEQ
Lourdes Iturralde, LDEQ
John Kieling, NMED
Mike Stickney, ODEQ
James Gradney, TCEQ

3. For the purposes of this proceeding, the Respondents admit the jurisdictional allegations contained herein; however, the Respondents neither admit nor deny the specific factual allegations contained in this CAFO.

4. The Respondents explicitly waive any right to contest the allegations and their right to appeal the proposed Final Order set forth therein, and waive all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

5. Compliance with all the terms and conditions of this CAFO shall resolve only those violations which are set forth herein.

6. The Respondents consent to the issuance of the CAFO hereinafter recited and consent to the issuance of the Compliance Order contained therein.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. PRELIMINARY ALLEGATIONS

7. US Ecology Texas, Inc. (USET) is a corporation incorporated under the laws of the State of Delaware and authorized to do business in the State of Texas.

8. TD*X Associates LP (TD*X) is a limited partnership authorized to do business in the State of Texas.

9. "Person" is defined in 30 T.A.C. § 3.2(25) [40 C.F.R. §§ 260.10 and 270.2], and Section 1004(5) of RCRA, 42 U.S.C. § 6903(15) as "an individual, corporation, organization, government or government subdivision or agency, business trust, partnership, association, or any other legal entity."

10. The Respondent USET is a "person" as defined by 30 T.A.C. § 3.2 (25) [40 C.F.R. § 260.10], and Section 1004 (15) of RCRA, 42 U.S.C. § 6903(15).

11. The Respondent TD*X is a “person” as defined by 30 T.A.C. § 3.2 (25) [40 C.F.R. § 260.10], and Section 1004 (15) of RCRA, 42 U.S.C. § 6903 (15).

12. “Owner” is defined in 30 T.A.C. § 335.1(108) [40 C.F.R. § 260.10] as “the person who owns a facility or part of a facility.”

13. “Operator” is defined in 30 T.A.C. § 335.1(107) [40 C.F.R. § 260.10] as “the person responsible for the overall operation of a facility”.

14. “Owner or operator” is defined in 40 C.F.R. § 270.2 as “the owner or operator of any facility or activity subject to regulation under RCRA.”

15. “Facility” is defined in 30 T.A.C. § 335.1(59) [40 C.F.R. § 260.10] as meaning “all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of municipal hazardous waste or industrial solid waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).”

16. The Respondent USET owns and operates a hazardous waste treatment, storage, and disposal (TSD) facility located at 3327 County Road 69, Robstown, TX 78380, EPA I.D. No. TXD069452340, Permit No. HW-50052-001.

17. The TSD identified in Paragraph 16 is a “facility” as that term is defined in 30 T.A.C. § 335.1(59) [40 C.F.R. § 260.10].

18. The Respondent USET is the “owner” and/or “operator” of the facility identified in Paragraph 16, as those terms are defined in 30 TAC § 335.1(107) & (108) [40 C.F.R. § 260.10] and 40 C.F.R. § 270.2.

19. An oil reclamation unit is located at the facility identified in Paragraph 16.

20. The Respondent TD*X owns and operates a thermal desorption unit (TDU), as well as the feed preparation system that includes a shaker tank (T-30), three mix tanks (T-31, T-32, and T-33), a centrifuge, and a surge tank (T-34) at the oil reclamation unit.

21. The Respondent TD*X began operating the TDU and related equipment on or about June 15, 2008.

22. On or about June 8 – 11, 2010, June 14 – 17, 2010, and August 9 – 11, 2010, the Respondent USET's TSD facility and the oil reclamation unit were inspected by representatives of EPA pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.

B. VIOLATIONS

Count One – Processing Hazardous Waste Without a Permit or Interim Status

23. Pursuant to Sections 3005(a) and (e) of RCRA, 42 U.S.C. §§ 6925(a) and (e), and 30 T.A.C. § 335.43(a) [40 C.F.R. § 270.1(b)], a RCRA permit or interim status is required for the processing (treatment),¹ storage, or disposal of hazardous waste.

24. “Hazardous waste” is defined in 30 T.A.C. § 335.1(69) [40 C.F.R. § 261.3] as “any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency in accordance with the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code, §§ 6901 *et seq.*”

25. “Recyclable materials” is defined in 30 T.A.C. §335.24(a) [40 C.F.R. § 261.6(a)(1)] as “hazardous wastes that are recycled”.

¹ The Texas Administrative Code uses the term “processing” instead of “treatment”. The term “processing” as used by Texas is essentially equivalent to the term “treatment” as used in the federal statute and regulations.

26. The Respondent USET receives “hazardous waste” from off-site generators, as that term is defined by 30 T.A.C. § 335.1(69) [40 C.F.R. § 261.3].

27. The Respondent USET receives “recyclable materials” from off-site generators, as that term is defined by 30 T.A.C. § 335.24(a) [40 C.F.R. § 261.6(a)(1)].

28. Recyclable materials destined for oil reclamation are transferred to the Respondent TD*X by the Respondent USET.

29. Processing (treatment) is defined in 30 T.A.C. § 335.1(122) [40 C.F.R. § 260.10] as follows:

The extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the treatment or neutralization of solid waste or hazardous waste, designed to change the physical, chemical, or biological character or composition of any solid waste or hazardous waste so as to neutralize such waste, or so as to recover energy or material from the waste or so as to render such waste nonhazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. The transfer of solid waste for reuse or disposal as used in this definition does not include the actions of a transporter in conveying or transporting solid waste by truck, ship, pipeline, or other means. Unless the executive director determines that regulation of such activity is necessary to protect human health or the environment, the definition of processing does not include activities relating to those materials exempted by the administrator of the United States Environmental Protection Agency in accordance with the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code, §§6901 *et seq.*, as amended.

30. On various dates after June 15, 2008, certain recyclable materials were processed in the tanks identified in Paragraph 20.

31. The recyclable materials identified in Paragraph 30 did not meet the exemption in 30 T.A.C. § 335.24(c)(4)(C) [40 C.F.R. § 261.6(a)(3)(iv)(C) because the hazardous wastes were not “oil-bearing hazardous wastes from petroleum refining, production, and transportation practices.”

32. The Respondent TD*X processed (treated) hazardous waste as that term is defined in 30 T.A.C. § 335.1(122) [40 C.F.R. § 260.10] in the tanks identified in Paragraph 20.

33. To date, neither the Respondent USED nor Respondent TD*X has applied for nor received a RCRA permit or interim status to allow the processing (treatment) of hazardous waste in the tanks identified in Paragraph 20.

34. Therefore, the Respondent USET and the Respondent TD*X have violated Sections 3005(a) and (e) of RCRA, 42 U.S.C. §§ 6925(a) and (e), and 30 T.A.C. § 335.43(a) [40 C.F.R. § 270.1(b)] by processing (treating) hazardous waste without a RCRA permit or interim status.

Count Two – Processing Hazardous Waste Without a Permit or Interim Status

35. Pursuant to Sections 3005(a) and (e) of RCRA, 42 U.S.C. §§ 6925(a) and (e), and 30 T.A.C. § 335.43(a) [40 C.F.R. § 270.1(b)], a RCRA permit or interim status is required for the processing (treatment), storage, or disposal of hazardous waste.

36. “Hazardous waste” is defined in 30 T.A.C. § 335.1(69) [40 C.F.R. § 261.3] as “any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency in accordance with the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code, §§ 6901 *et seq.*”

37. “Recyclable materials” is defined in 30 T.A.C. § 335.24(a) [40 C.F.R. § 261.6(a)(1)] as “hazardous wastes that are recycled”.

38. The Respondent USET receives “hazardous waste” from off-site generators, as that term is defined by 30 T.A.C. § 335.1(69) [40 C.F.R. § 261.3].

39. The Respondent USET receives “recyclable materials” from off-site generators, as that term is defined by 30 T.A.C. § 335.24(a) [40 C.F.R. § 261.6(a)(1)].

40. Recyclable materials destined for oil reclamation are transferred to the Respondent TD*X by the Respondent USET.

41. On various dates after June 15, 2008, certain recyclable materials were fed into the TDU that did not meet the exemption in 30 T.A.C. § 335.24(c)(4)(C) [40 C.F.R. § 261.6(a)(3)(iv)(C) because the hazardous wastes were not “oil-bearing hazardous wastes from petroleum refining, production, and transportation practices.”

42. Processing (treatment) is defined in 30 T.A.C. § 335.1(122) [40 C.F.R. § 260.10] as follows:

The extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the treatment or neutralization of solid waste or hazardous waste, designed to change the physical, chemical, or biological character or composition of any solid waste or hazardous waste so as to neutralize such waste, or so as to recover energy or material from the waste or so as to render such waste nonhazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. The transfer of solid waste for reuse or disposal as used in this definition does not include the actions of a transporter in conveying or transporting solid waste by truck, ship, pipeline, or other means. Unless the executive director determines that regulation of such activity is necessary to protect human health or the environment, the definition of processing does not include activities relating to those materials exempted by the administrator of the United States Environmental Protection Agency in accordance with the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code, §§6901 *et seq.*, as amended.

43. Thermal processing (thermal treatment) is defined in 30 T.A.C. § 335.1(149) [40 C.F.R. § 260.10] as follows:

the processing of solid waste or hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the solid waste or hazardous waste. Examples of thermal processing are incineration, molten salt, pyrolysis, calcination, wet air

oxidation, and microwave discharge. (See also “incinerator” and “open burning.”).

44. The TDU uses heat from an indirect heated rotary dryer to separate the organic constituents from the hazardous waste feed material. A nitrogen carrier gas is used to transfer the vapor phase organic constituents to a gas treatment system. The oil is recovered by condensing vapor phase organic constituents in the gas treatment system. A portion of the TDU’s recirculating nitrogen carrier gas, along with non-condensable gases, is vented, filtered, and then injected into the combustion chamber of the TDU, where it is burned.

45. The separation of the organic constituents from the hazardous waste in the TDU’s indirectly heated rotary dryer constitutes thermal processing (thermal treatment) as that term is defined in 30 T.A.C. § 335.1(149) [40 C.F.R. § 260.10].

46. To date, neither the Respondent USET nor Respondent TD*X has applied for nor received a RCRA permit or interim status to allow the thermal processing (thermal treatment) of hazardous waste in the TDU.

47. Therefore, the Respondent USET and the Respondent TD*X have violated Sections 3005(a) and (e) of RCRA, 42 U.S.C. §§ 6925(a) and (e), and 30 T.A.C. § 335.43(a) [40 C.F.R. § 270.1(b)] by thermally processing (thermally treating) hazardous waste without a RCRA permit or interim status.

Count Three - Processing Hazardous Waste Without a Permit or Interim Status

48. Pursuant to Sections 3005(a) and (e) of RCRA, 42 U.S.C. §§ 6925(a) and (e), and 30 T.A.C. § 335.43(a) [40 C.F.R. § 270.1(b)], a RCRA permit or interim status is required for the processing (treatment), storage, or disposal of hazardous waste.

49. “Hazardous waste” is defined in 30 T.A.C. § 335.1(69) [40 C.F.R. § 261.3] as “any solid waste identified or listed as a hazardous waste by the administrator of the United States

Environmental Protection Agency in accordance with the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code, §§ 6901 *et seq.*”

50. The Respondent USET receives “hazardous waste” from off-site generators, as that term is defined by 30 T.A.C. § 335.1(69) [40 C.F.R. § 261.3].

51. Hazardous wastes destined for oil reclamation are transferred to the Respondent TD*X by the Respondent USET.

52. On various dates after June 15, 2008, hazardous wastes were fed into the TDU.

53. The TDU uses heat from an indirect heated rotary dryer to separate the organic constituents from the hazardous waste feed material. A nitrogen carrier gas is used to transfer the vapor phase organic constituents to a gas treatment system. The oil is recovered by condensing vapor phase organic constituents in the gas treatment system. A portion of the TDU’s recirculating nitrogen carrier gas, along with non-condensable gases, is vented, filtered, and then injected into the combustion chamber of the TDU, where it is burned.

54. Processing (treatment) is defined in 30 T.A.C. § 335.1(122) [40 C.F.R. § 260.10] as follows:

The extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the treatment or neutralization of solid waste or hazardous waste, designed to change the physical, chemical, or biological character or composition of any solid waste or hazardous waste so as to neutralize such waste, or so as to recover energy or material from the waste or so as to render such waste nonhazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. The transfer of solid waste for reuse or disposal as used in this definition does not include the actions of a transporter in conveying or transporting solid waste by truck, ship, pipeline, or other means. Unless the executive director determines that regulation of such activity is necessary to protect human health or the environment, the definition of processing does not include activities relating to those materials exempted by the administrator of the United States Environmental Protection Agency in

accordance with the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code, §§6901 *et seq.*, as amended.

55. Thermal processing (thermal treatment) is defined in 30 T.A.C. § 335.1(149)

[40 C.F.R. § 260.10] as follows:

the processing of solid waste or hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the solid waste or hazardous waste. Examples of thermal processing are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also “incinerator” and “open burning.”)

56. The burning of gases in the TDU’s combustion chamber constitutes thermal processing (thermal treatment) as that term is defined in 30 T.A.C. § 335.1(149)

[40 C.F.R. § 260.10].

57. The combustion chamber of the TDU is an enclosed device that uses controlled flame combustion.

58. The combustion chamber of the TDU does not meet the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; nor meets the definition of infrared incinerator or plasma arc incinerator.”

59. To date, neither the Respondent USET nor Respondent TD*X has applied for nor received a RCRA permit or interim status to allow the thermal processing (thermal treatment) of hazardous waste in the combustion chamber of the TDU.

60. Therefore, the Respondent USET and the Respondent TD*X have violated and continue to violate Sections 3005(a) and (e) of RCRA, 42 U.S.C. §§ 6925(a) and (e) and 30 T.A.C. § 335.43(a) [40 C.F.R. § 270.1(b)] by thermally processing (thermally treating) hazardous waste without a RCRA permit or interim status.

Count Four – Storing Hazardous Waste Without a Permit Or Interim Status

61. Pursuant to Sections 3005(a) and (e) of RCRA, 42 U.S.C. §§ 6925(a) and (e), and 30 T.A.C. § 335.43(a) [40 C.F.R. § 270.1(b)], a RCRA permit or interim status is required for the processing (treatment), storage, or disposal of hazardous waste.

62. “Storage” is defined in 30 T.A.C. § 335.1(143) [40 C.F.R. § 260.10] as “the holding of solid waste for a temporary period, at the end of which the waste is processed, disposed of, recycled, or stored elsewhere.”

63. Between on or about March 9, 2010, and June 11, 2010, the Respondent USET stored roll-off boxes in the area called the “Y” at the facility.

64. The roll-off boxes identified in Paragraph 63 contained material which had entered the oil reclamation process and was being temporarily staged before undergoing subsequent stages of the reclamation process. The Respondent USET discontinued the use of the area called the “Y” for this purpose.

65. “Hazardous waste” is defined in 30 T.A.C. § 335.1(69) [40 C.F.R. § 261.3] as “any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency in accordance with the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code, §§ 6901 *et seq.*”

66. The roll-off boxes identified in Paragraph 63 contained “hazardous waste” as that term is defined in T.A.C. § 335.1(69) [40 C.F.R. § 261.3].

67. The Respondent USET had not applied for nor received a RCRA permit or interim status to allow the storage of hazardous waste at the area called the “Y”.

68. Therefore, the Respondent USET has violated Sections 3005(a) and (e) of RCRA, 42 U.S.C. §§ 6925(a) and (e), and 30 T.A.C. § 335.43(a) [40 C.F.R. § 270.1(b)] by storing hazardous waste without a RCRA permit or interim status.

III. COMPLIANCE ORDER

69. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), the Respondents are hereby **ORDERED** to take the following actions and provide evidence of compliance within the time period specified below:

A. Interim Operating Requirements

1. As of the effective date of this CAFO, feedstock for the oil reclamation unit shall consist only of non-hazardous waste, and oil-bearing hazardous waste from petroleum refining, production, and transportation practices. Oil-bearing hazardous waste from petroleum refining, production, or transportation practices includes the following listed hazardous waste from specific Petroleum Refining Sources (K049, K050, K051, K052, K169, and K170). Also acceptable is oil-bearing hazardous waste from processes which meet the definition of the following Standard Industrial Classification (SIC) codes and corresponding North American Industry Classification System (NAICS) codes (i.e., petroleum refining, production, and transportation practices) as follows:

SIC Code	SIC Description	NAICS Code	NAICS Title
1311	Crude Petroleum & Natural Gas	211111	Crude Petroleum and Natural Gas Extraction
1321	Natural Gas Liquids	211112	Natural Gas Liquid Extraction
1381	Drilling Oil & Gas Wells	213111	Drilling Oil and Gas Wells
1382	Oil & Gas Field Exploration Services (except geophysical mapping & surveying)	213112	Support Activities for Oil & Gas Operations
1389	Oil and Gas Field Services, NEC (except construction of field gathering lines, site	213112	Support Activities for Oil and Gas Operations

	preparation and related construction activities performed on a contract or fee basis)		
2911	Petroleum Refining	324110	Petroleum Refineries
4612	Crude Petroleum Pipelines	486110	Pipeline Transportation of Crude Oil
4613	Refined Petroleum Pipelines	486910	Pipeline Transportation of Refined Petroleum Products
4789	Transportation Services, NEC (pipeline terminals and stockyards for transportation)	488999	All Other Support Activities for Transportation
4922	Natural Gas Transmission	486210	Pipeline Transportation of Natural Gas
4923	Natural Gas Transmission and Distribution (distribution)	221210	Natural Gas Distribution
4923	Natural Gas Transmission and Distribution (transmission)	486210	Pipeline Transportation of Natural Gas
5171	Petroleum Bulk Stations and Terminals (except petroleum sold via retail method)	488999	All Other Support Activities for Transportation
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals (merchant wholesalers)	424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)

2. Using feedstock from processes meeting the definition of the aforementioned SIC/NAICS Codes does not constitute compliance with 40 C.F.R. § 261.6(a)(3)(iv)(C) or this CAFO. The Respondents are required to make a separate determination whether the hazardous waste in question is “oil-bearing,” and that the hazardous waste was originally generated from petroleum refining, production, or transportation practices.

3. As of the effective date of this CAFO, when the dryer feed is on, the Respondents shall operate the TDU in accordance with the interim operating parameters set forth in Appendix 1, Table A, which is attached and incorporated by reference into this CAFO. The Blending Protocols referenced in Appendix 1 is attached as Appendix 2, and incorporated by reference into this CAFO.

4. As of the effective date of this CAFO, Respondents shall comply with the Start-Up, Shutdown, and Malfunction Plan (SSM Plan) (CDT Plan, Appendix E). The Compliance Demonstration Test (CDT) Plan is attached as Appendix 3 and incorporated by reference into the CAFO.

5. Within sixty (60) days of the effective date of this CAFO, the Respondents shall conduct a tune-up of the external combustion chamber of the TDU in accordance with the following requirements:

a. As applicable, inspect the burner and clean or replace any components of the burner as necessary. The burner inspection may be delayed until the next scheduled or unscheduled unit shutdown.

b. Inspect the flame pattern, as applicable, and adjust the burner as necessary to optimize the flame pattern. The adjustment should be consistent with the manufacturer's specification.

c. Inspect the system controlling the air-to-fuel ratio, as applicable, and ensure that it is correctly calibrated and functioning properly.

d. Optimize total emissions of carbon monoxide (CO). This optimization should be consistent with the manufacturer's specifications, if available.

e. Measure the concentrations in the effluent stream of CO in parts per million, by volume, and oxygen in volume percent, before and after the adjustments are made.

Measurements may be either on a dry or wet basis, as long as it is the same basis before and after the adjustments are made.

f. Perform sampling and analysis of both dryer furnace stacks using Method TO-15, "Determination of Volatile Organic Compounds (VOCs) In Air Collected In Specially-Prepared Canisters And Analyzed By Gas Chromatography/Mass Spectrometry (GC/MS)". If the total

organic matter result is greater than 10 ppmV for either stack, the analysis shall include speciation of the gas. This information shall be included in the report required in Paragraph 69.A.5.g below.

g. Maintain on-site a report documenting the concentrations of CO in the effluent stream in parts per million by volume, and oxygen in volume present, measured before and after the adjustments of the external combustion chamber of the TDU, and a description of any corrective actions taken as part of the combustion adjustment.

h. Subsequent tune-ups shall be conducted annually until the TDU is reconfigured.

6. Within sixty (60) days of the effective date of this CAFO, the Respondents shall conduct a fuel specification analysis of the purge vent gas for mercury and document that it does not exceed the maximum concentration of 40 micrograms/cubic meter of mercury using test methods ASTM D5954, ASTM D6350, ISO 6978-1:2003(E), or ISO 6978-2:2003(E), or an alternate test method approved by EPA. If the concentration of mercury exceeds 40 micrograms/cubic meter, the Respondents shall immediately notify EPA.

7. Within ninety (90) days of the effective date of this CAFO, the Respondents shall install, monitor, and operate an automatic hazardous waste feed cutoff (AWFCO) at the TDU in accordance with 40 C.F.R. § 63.1206(c)(3)(ii) and (iv) that immediately and automatically cuts off the hazardous waste feed when any component of the AWFCO system fails, or when one or more of the interim operating parameters set forth in Appendix 1, Table A that are designated as AWFCO parameters are not met. The Respondents shall also comply with the investigation, recordkeeping, testing, and reporting requirements of 40 C.F.R. § 63.1206(c)(3)(v), (vi) and (vii).

8. Within one year of the effective date of this CAFO, the Respondents shall reconfigure the TDU so that the non-condensable vent gases are routed to a thermal oxidizing unit (TOU)

instead of the combustion chamber of the TDU (Reconfigured TDU). After reconfiguration, fuel for the TDU is limited to natural gas and propane.

9. The Respondents shall operate the Reconfigured TDU during the shakedown period in accordance with the operating parameters limits set forth in Appendix 1, Table B when the dryer feed is on. The Respondent shall not operate the Reconfigured TDU more than 720 hours (including the shakedown period and the Compliance Demonstration Test). The Respondents shall keep records of the hours of operation during the shakedown period. The Respondents shall operate a continuous emissions monitor system (CEMS) for carbon monoxide (CO) for the TOU during the shakedown period. The Respondents shall operate the Reconfigured TOU in a manner that the hourly rolling averages for CO are not exceeded. The rolling averages shall be calculated in accordance with 40 C.F.R. §§ 63.1209(a)(6) and 63.1209(b)(5).

10. During the shakedown period, the Respondents shall monitor and operate an automatic hazardous waste feed cutoff (AWFCO) at the Reconfigured TDU in accordance with 40 C.F.R. § 63.1206(c)(ii) and (iv) that immediately and automatically cuts off the hazardous waste feed when any component of the AWFCO system fails, or when one or more of the operating parameter limits set forth in Appendix 1, Table B that are designated as AWFCO parameters are not met. The Respondents shall also comply with the investigation, recordkeeping, testing, and reporting requirements of 40 C.F.R. § 63.1206(c)(3) (v), (vi) and (vii).

11. The Respondents shall conduct a test measuring the concentration of CO in the exhaust gases from the TOU. This test shall include three one-hour runs during which the TDU is operated on oil-bearing hazardous waste. The emissions from the TOU stack shall be monitored for carbon monoxide and oxygen using EPA Method 10. The emissions shall be

demonstrated to be less than 100 ppmV CO corrected to 7% O₂ in each run. The test frequency shall be once during each six-month period, January 1 – June 30 and July 1 - December 31, said time period to commence after conducting the CDT and continuing until the TCEQ issues a RCRA Subpart X permit for the Reconfigured TDU. Within forty-five (45) days after conducting the test, the Respondents shall submit a test report to EPA summarizing the test results. The time periods for conducting the test may be changed to once during each twelve (12) month calendar period, January 1 - December 31, if the Respondents submit to EPA, with a copy to TCEQ, a detailed feed stream analysis plan that characterizes the waste received by the facility, and EPA approves the plan. The detailed feedstream analysis plan shall be prepared in accordance with 40 C.F.R. § 264.13 and the EPA Guidance Document “Waste Analysis At Facilities That Generate, Treat, Store, And Dispose of Hazardous Waste”, OSWER 9938.4-03 (April 1994). The Respondents will implement the detailed feedstream analysis plan, as approved or modified by EPA, immediately upon receipt of EPA’s approval.

12. The Respondents shall prepare a report for the time period beginning on the effective date of this CAFO and ending June 30, 2013, and every six (6) months thereafter. The report shall be submitted to EPA, with a copy to TCEQ, within thirty (30) days of the end of the reporting period. The report shall include the following:

a. For each waste stream accepted by the oil reclamation unit, identify the customer, original generator, waste stream description, RCRA waste codes, the SIC or NAICS code of the process generating the waste, a summary of any analyses conducted by the Respondents to verify the waste stream profiles, and the total volume of waste accepted during the reporting period. If requested by EPA, the Respondents shall provide copies of relevant waste approval documents and manifests for the specific waste streams.

b. All time periods in which there were exceedances of the operating parameters and the AWFCO requirements set forth in Appendix 1, Tables A and B, and exceedances of the hourly rolling averages for CO (Paragraph 69.A.9).

c. All exceedances of the Reconfigured TDU Compliance Standards and the AWFCO requirements established in accordance with Paragraph 69.C.9.

d. The initial Report shall include documentation showing that the tune-up and fuel specification analysis required by Paragraphs 69.A.5 and 69.A.6 have been conducted, and provide documentation showing the date of installation and subsequent operation of the AWFCO system required by Paragraphs 69.A.7.

e. Documentation showing the installation of the TOU required by Paragraph 69.A.8, and the additional AWFCO requirements required by Appendix 1, Table B (Paragraph 69.A.10).

The Report may be submitted in an electronic format (i.e., compact disk). The Respondents may claim the report as confidential business information (CBI), in accordance with the requirements of 40 C.F.R. Part 2. However, information that is emissions data or a standard or limitation cannot be claimed as CBI. 40 C.F.R. § 2.301(e). If the Report contains any information that is claimed CBI, the Respondents shall provide a redacted version with all CBI deleted.

B. RCRA Permit Modification

1. Within one year of the effective date of this CAFO, the Respondents shall submit to TCEQ, with a copy to EPA, an application for a Class 3 RCRA Permit Modification to permit the Reconfigured TDU as a miscellaneous unit under 40 C.F.R. Part 264, Subpart X in accordance with 30 T.A.C. § 335.152(a)(16) [40 C.F.R. Part 264, Subpart X], 30 T.A.C. Chapter 305 [40 C.F.R. §§ 270.10 – 270.14, 270.19, 270.23, and 270.30 – 270.33].

2. The permit application shall also include relevant requirements of 40 C.F.R. Part 264, Subparts I through O and AA through CC, 40 C.F.R. Part 270, and 40 C.F.R. Part 63, Subpart EEE that are appropriate for the operation of the Reconfigured TDU, including an engineering report, waste analysis, monitoring and inspection requirements, and closure requirements set forth in 30 T.A.C. § 335.152(a)(13) [40 C.F.R. §§ 264.341, 264.347, and 264.351].

3. The Respondents shall also request that the issued RCRA permit modification include the following:

- a. The feedstock limitations applicable to the operation of the oil reclamation unit under 40 C.F.R. § 261.6(a)(3)(iv)(C) set forth in Paragraph 69.D;
- b. The investigation, recordkeeping, testing, and reporting requirements of 40 C.F.R. § 63.1206(c)(3) (v), (vi) and (vii);
- c. Appropriate recordkeeping and reporting requirements; and
- d. Any applicable risk-based terms and conditions necessary to protect human health and the environment.

4. The failure to timely submit a Class 3 Permit Modification to TCEQ and EPA within the deadline set forth in Paragraph 69.B.1 shall result in the termination of the Respondents' authorization to operate the Reconfigured TDU on that date unless that deadline has been extended pursuant to Section IV.F (Force Majeure).

5. By no later than three and one-half years (42 months) from the effective date of this CAFO, the Respondents must complete all permitting requirements and obtain issuance from the TCEQ of a final RCRA Subpart X permit for the TDU as a Subpart X – Miscellaneous Unit in accordance with 30 T.A.C. § 335.152(a)(16) [40 C.F.R. Part 264, Subpart X], 30 T.A.C. Chapter 305 [40 C.F.R. §§ 270.10 – 270.14, 270.19, 270.23, and 270.30 – 270.33], and which

incorporates the appropriate requirements of 40 C.F.R. Part 264, Subparts I through O and AA through CC, 40 C.F.R. Part 270, and 40 C.F.R. Part 63, Subpart EEE. In the event that TCEQ does not issue a RCRA Subpart X permit for the Reconfigured TDU as described above by the above deadline, the Respondents' authorization to operate the Reconfigured TDU terminates on that date, unless that deadline has been extended pursuant to Section IV.F (Force Majeure).

C. Compliance Demonstration Test

1. The Respondents shall perform a compliance demonstration test (CDT) in accordance with the approved CDT Plan, which is attached as Appendix C and incorporated by reference into the CAFO. The CDT requires the Respondents to demonstrate compliance with the emissions limits of 40 C.F.R. § 63.1219(b) set forth in Paragraph C.5, the destruction and removal efficiency standard of 40 C.F.R. § 63.1219(c)(1) set forth in Paragraph C.4, and establish limits for the operating parameters set forth in Paragraph 69.C.6 (Appendix 1, Table C).

2. Within sixty (60) days of the effective date of this CAFO, the Respondents shall submit to EPA for approval, with a copy to TCEQ, a Quality Assurance Project Plan (QAPP) for the CDT. The QAPP shall be prepared in accordance with the EPA Region 6 Guidance "Quick Reference Guide, Test Burn Program Planning for Hazardous Waste Combustion (HWC) Units" dated August 6, 2012. The Respondents shall implement the QAPP as approved or modified by EPA.

3. The Respondents shall implement the CDT in accordance with Appendix 3 within ninety (90) days after reconfiguration of the TDU pursuant to Paragraph 69.A.8 of this CAFO.

4. During the CDT, the Respondents must achieve a destruction and removal efficiency (DRE) of 99.99% for toluene, the designated principle organic hazardous constituent (POHC). The DRE shall be calculated in accordance with 40 C.F.R. § 63.1219(c)(1).

5. The emission limits that must be met during the CDT are set forth in 40 C.F.R. § 63.1219(b).
6. The operating parameters limits that will be established during the CDT are set forth in Appendix 1, Table C.
7. The Respondents must not exceed the emission limits set forth in 40 C.F.R. § 63.1219(b), and must achieve a DRE of 99.99% for toluene [as set forth in 40 C.F.R. § 63.1219(c)] for all three runs in order to have a successful CDT. If the Respondents determine, based on the results of analyses of stack samples, that they have exceeded any emission standard or failed to meet the DRE requirement during any of the three runs, they must immediately cease processing hazardous waste in the Reconfigured TDU. The Respondents must make this determination within forty-five (45) days following completion of the CDT. The Respondents may not resume operation of the Reconfigured TDU until the Respondents have submitted and received EPA approval of a revised CDT plan, at which time operations can resume to demonstrate compliance with the emission limits and DRE requirements during all of the three runs.
8. All analyses required by the CDT plan shall be performed by a NELAC accredited laboratory or by a laboratory pre-approved by TCEQ.
9. Within ninety (90) days from completion of the CDT, the Respondents shall submit a CDT Report to EPA and TCEQ prepared in accordance with requirements in the CDT Plan, documenting compliance with the DRE standard and emission limits set forth in Paragraphs 69.C.4 and 69.C.5, and identifying operating parameter limits and AWFCO settings for the parameters set forth in Appendix 1, Table C. The DRE standard, emission limits, operating parameter limits, and the AWFCO settings shall also be set forth in a separate Appendix entitled

“Reconfigured TDU Compliance Standards”. All data collected during the CDT (including, but not limited to, field logs, chain-of-custody documentation, monitoring data, sampling and analytical results, and any other data or calculations supporting the emissions calculations or operating parameter limits) must be submitted to EPA and TCEQ as part of the CDT Report. However, information in the CDT Report that is emissions data or a standard or limitation cannot be claimed as CBI. 40 C.F.R. § 2.301(e). If the Report contains any information that is claimed CBI, the Respondents shall provide a redacted version with all CBI deleted.

10. As of the date of the submission of the CDT Report, the Respondent shall comply with all operating requirements set forth in the “Reconfigured TDU Compliance Standards”, unless otherwise notified by EPA.

11. EPA will review the CDT Report. EPA will make a finding concerning compliance with the emissions standards, DRE requirements, and other requirements of the CDT. If EPA determines that the Respondents have met all the requirements, it shall issue a Finding of Compliance to the Respondents. If EPA determines that the Respondents did not meet all of the requirements, it shall issue a Finding of Non-Compliance. Subject to Paragraph 69.C.7 of this CAFO, the issuance of a Finding of Non-Compliance by EPA shall result in the termination of the Respondents’ authorization to operate the Reconfigured TDU on that date.

12. The failure to timely submit a CDT Report to EPA and TCEQ within ninety (90) days from completion of the CDT shall result in the termination of the Respondents’ authorization to operate the Reconfigured TDU on that date, unless that deadline has been extended pursuant to Section IV.F (Force Majeure).

D. Compliance with 40 C.F.R. § 261.6(a)(3)(iv)(C)

1. Unless the TDU and the tanks identified in Paragraph 20 are authorized by the RCRA Permit Modification required by Section III.B of this CAFO (or any subsequent permit amendment) to receive wastes that do not meet the requirements set forth in 40 C.F.R. § 261.6(a)(3)(iv)(C), feedstock for the oil reclamation unit shall consist only of non-hazardous waste, and oil-bearing hazardous waste from petroleum refining, production, and transportation practices. Oil-bearing hazardous waste from petroleum refining, production, or transportation practices includes the following listed hazardous waste from specific Petroleum Refining Sources (K049, K050, K051, K052, K169, and K170). Also acceptable is oil-bearing hazardous waste from processes which meet the definition of the following Standard Industrial Classification (SIC) codes and corresponding North American Industry Classification System (NAICS) codes (i.e., petroleum refining, production, and transportation practices) as follows:

SIC Code	SIC Description	NAICS Code	NAICS Title
1311	Crude Petroleum & Natural Gas	211111	Crude Petroleum and Natural Gas Extraction
1321	Natural Gas Liquids	211112	Natural Gas Liquid Extraction
1381	Drilling Oil & Gas Wells	213111	Drilling Oil and Gas Wells
1382	Oil & Gas Field Exploration Services (except geophysical mapping & surveying)	213112	Support Activities for Oil & Gas Operations
1389	Oil and Gas Field Services, NEC (except construction of field gathering lines, site preparation and related construction activities performed on a contract or fee basis)	213112	Support Activities for Oil and Gas Operations
2911	Petroleum Refining	324110	Petroleum Refineries
4612	Crude Petroleum Pipelines	486110	Pipeline Transportation of Crude Oil
4613	Refined Petroleum Pipelines	486910	Pipeline Transportation of Refined Petroleum Products

4789	Transportation Services, NEC (pipeline terminals and stockyards for transportation)	488999	All Other Support Activities for Transportation
4922	Natural Gas Transmission	486210	Pipeline Transportation of Natural Gas
4923	Natural Gas Transmission and Distribution (distribution)	221210	Natural Gas Distribution
4923	Natural Gas Transmission and Distribution (transmission)	486210	Pipeline Transportation of Natural Gas
5171	Petroleum Bulk Stations and Terminals (except petroleum sold via retail method)	488999	All Other Support Activities for Transportation
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals (merchant wholesalers)	424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)

Nothing in this Section III.D shall be construed to preclude Respondents from seeking authorization from the TCEQ to process oil-bearing materials outside the scope of 40 C.F.R. § 261.6(a)(3)(iv)(C). However, the definition of oil-bearing hazardous waste from petroleum refining, production, or transportation practices set forth in this Paragraph shall remain the same.

2. Using feedstock from processes meeting the definition of the aforementioned SIC/NAICS Codes does not constitute compliance with 40 C.F.R. § 261.6(a)(3)(iv)(C) or this CAFO. The Respondents are required to make a separate determination whether the hazardous waste in question is “oil-bearing,” and that the hazardous waste was originally generated from petroleum refining, production, or transportation practices. The Respondents shall request that this provision be placed in the issued RCRA permit as applicable to the oil reclamation unit operation under 40 C.F.R. § 261.6(a)(3)(iv)(C).

E. TCEQ Submission, Revision, and Approval Process

1. For the Class 3 RCRA Permit Modification required be submitted to TCEQ for approval under this CAFO, TCEQ will review the application in accordance with 30 T.A.C.

§§ 281.3(c), 281.18 and 281.19(a) and (b). The Respondents must respond to any Notice of Deficiency (NOD), with a copy to EPA, within the time period specified by the TCEQ. In the event that the Respondents fail to submit a timely and complete NOD response, the Respondents' authorization to operate the TDU shall terminate on the NOD response deadline unless that deadline has been extended pursuant to Section IV.F (Force Majeure).

F. Additional Conditions

1. To comply with this CAFO, the Respondents must obtain a RCRA permit for the TDU as a Subpart X – Miscellaneous Unit in accordance with 30 T.A.C. § 335.152(a)(16) [40 C.F.R. Part 264, Subpart X], 30 T.A.C. Chapter 305 [40 C.F.R. §§ 270.10 – 270.14, 270.19, 270.23, and 270.30 – 270.33], and which incorporates the appropriate requirements of 40 C.F.R. Part 264, Subparts I through O and AA through CC, and 40 C.F.R. Part 270, and 40 C.F.R. Part 63, Subpart EEE.

2. The Respondents may seek relief under the provisions of Section IV.F of this CAFO (Force Majeure) for any delay in the performance of any such obligations resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if the Respondent has submitted a timely and complete application and has taken all other actions necessary to obtain such permit or approval.

G. EPA Review and Comment on RCRA Permit

1. Nothing in this CAFO shall limit EPA's rights under applicable environmental laws or regulations, including, but not limited to, Section 3005(c)(3) of RCRA, 42 U.S.C. § 6925(c)(3), 40 C.F.R. § 270.32 and 40 C.F.R. § 271.19, to review, comment, and incorporate appropriate requirements of 40 C.F.R. Parts 264, Subparts I through O and Subparts AA through CC, and

40 C.F.R. Part 63, Subpart EEE directly into the permit or establish other permit conditions that are based on those parts; or take action under Section 3008(a)(3) of RCRA, 42 U.S.C.

§ 6928(a)(3), against the Respondents on the ground that the RCRA permit for the Reconfigured TDU does not comply with a condition that the EPA Region 6 Regional Administrator in commenting on the permit application or draft permit stated was necessary to implement approved State program requirements, whether or not that condition was included in the issued permit. If the Respondent disputes an action taken by EPA pursuant to 40 C.F.R. § 270.32 or 40 C.F.R. § 271.19, the Defendant may invoke Dispute Resolution in accordance with Section IV.E of this CAFO.

II. Submissions

In all instances in which this Compliance Order requires written submissions to EPA and TCEQ, each submission must be accompanied by the following certification:

“I certify under penalty of law to the best of my knowledge and belief, that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

All submissions must be certified on behalf of the Respondent(s) by the signature of a person authorized to sign a permit application or a report under 40 C.F.R. § 270.11.

I. Monitoring, Recordkeeping, and Record Retention Requirements

1. Upon the effective date of this CAFO, all interim operating parameters (Appendix 1, Table A), shakedown operating parameters (Appendix 1, Table B), and final operating parameters limits (Appendix 1, Table C and Paragraph 69.C.6) subject to AWFCO limits shall be monitored by the facility's Continuous Process Monitoring System (CPMS), which records data once per minute in an electronic data log (DLG). In addition, the Respondents shall keep copies

of all documents relating to compliance with the operating parameters limits not monitored by the CPMS, and all other documents relating to compliance with Section III of this CAFO. All records, including electronic records, shall be kept for a period of one year after termination of the CAFO. These monitoring and recordkeeping requirements are in addition to any other monitoring and/or recordkeeping requirements required by federal, state, or local laws, regulations, or permits. This information shall be made available to EPA and TCEQ upon request.

2. In addition, the Respondents shall preserve, for a period of one year after termination of the CAFO, all records and documents in its possession or in the possession of its divisions, employees, agents, contractors, or successors which in any way relate to this CAFO regardless of any document retention policy to the contrary. This information shall be made available to EPA and TCEQ upon request.

J. EPA Approval of Submissions

EPA will review the plans set forth in Paragraphs 69.A.11 (if applicable) and 69.C.2, and notify the Respondents in writing of EPA's approval or disapproval of the plan or any part thereof. Within the time specified, the Respondents shall address the deficiencies and submit a revised plan. EPA will approve, disapprove, or modify the revised submittal. EPA approved plans shall be incorporated by reference into this CAFO.

IV. TERMS OF SETTLEMENT

A. CIVIL PENALTY

70. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the

seriousness of the alleged violations, the Respondents' good faith efforts to comply with the applicable regulations, and the June 2003 RCRA Civil Penalty Policy, it is hereby **ORDERED** that the Respondent U.S. Ecology Texas, Inc. be assessed a civil penalty of **ONE HUNDRED SIXTY-FIVE THOUSAND, SIX HUNDRED FIFTY-SEVEN DOLLARS (\$165,657)**, and the Respondent TD*X Associates L.P. be assessed a civil penalty of **SIX HUNDRED TWENTY-TWO THOUSAND, FOUR HUNDRED SIXTY-THREE DOLLARS (\$622,463)**. The Respondent USET shall pay the assessed civil penalty within thirty (30) days of the effective date of this CAFO. The Respondent TD*X Associates L.P. shall pay the assessed civil penalty in four (4) payments as follows:

Payment No. 1: \$157,978.35 within thirty (30) days of the effective date of this CAFO.

Payment No. 2: \$157,978.35 (\$153,268.99 civil penalty plus interest of \$4,709.36) within one year of the effective date of this CAFO.

Payment No. 3: \$157,978.35 (\$154,822.97 civil penalty plus interest of \$3,155.38) within two years of the effective date of this CAFO.

Payment No. 4: \$157,978.34 (\$156,392.69 civil penalty plus interest of \$1,585.65) within three years of the effective date of this CAFO.

71. The Respondents shall pay the assessed civil penalty by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6". Payment shall be remitted in one of three (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check(s) should be
remitted to:

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

PLEASE NOTE: Docket numbers RCRA-06-2012-0936 (Respondent USET) and RCRA-06-2012-0937 (Respondent TD*X) shall be clearly typed on the respective checks to ensure proper credit. If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and docket number of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference the Respondent's name and address, the case name, and docket number of the CAFO. The Respondents shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter, or wire transfer instructions to the following:

Chief, Compliance Enforcement Section (6EN-HE)
Hazardous Waste Enforcement Branch
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Lorena Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

The Respondents' adherence to this request will ensure proper credit is given when penalties are received in the Region.

72. The Respondents agree not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

73. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

74. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a

penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. PARTIES BOUND

75. The provisions of this CAFO shall apply to and be binding upon the parties to this action, their officers, directors, agents, employees, successors, and assigns. The undersigned representative of each party to this CAFO certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this CAFO and to execute and to legally bind that party to it.

C. ADDITIONAL REQUIREMENTS

76. The Respondents shall undertake the following additional requirements:

A. The Respondents agree that the oil reclamation unit and the TDU are subject to the requirements of 40 C.F.R. Part 61, Subpart FF.

B. Within thirty (30) days of the effective date of the CAFO, the Respondents shall submit to EPA a certification that the following equipment in the oil reclamation unit and the TDU is not in “volatile hazardous air pollutant” (VHAP) service, as that term is defined by 40 C.F.R. § 61.241:

1. pumps;
2. compressors;
3. pressure relief devices;
4. sampling connection systems;
5. open-ended valves or lines;

6. valves;
7. connectors;
8. surge control vessels;
9. bottoms receivers; and
10. control devices and systems.

This certification shall be submitted in accordance with Paragraphs 76.H and 76.I.

C. Pursuant to 40 C.F.R. § 61.354(c), as of the effective date of this CAFO, the Respondents shall install, calibrate, maintain, and operate according to manufacturer's specifications, devices to continuously monitor the control devices operations required by 40 C.F.R. § 61.349.

D. Pursuant to 40 C.F.R. § 61.345(a), within 180 days of the effective date of the CAFO, the Respondents shall install, operate, and maintain covers on Bins 1, 2, 3, 4, and the Centrifuge solid bins that meet the requirements of 40 C.F.R. § 61.345(a)(1). The cover and openings shall be in a closed, sealed position at all times that waste is in the container except when it is necessary to use the opening for waste loading, removal, inspection or sampling, as required by 40 C.F.R. § 61.345(a)(1)(ii). The Respondents shall monitor the cover and all openings for no detectable emissions initially and thereafter at least once per year by the methods specified in 40 C.F.R. § 61.355(h).

E. The Respondents shall use a submerged fill pipe when transferring waste into the containers by pumping, as required by 40 C.F.R. § 61.345(a)(2).

F. Within ninety (90) days after the reconfiguration of the TDU pursuant to Paragraph 69.A.8 of this CAFO, the Respondents shall conduct performance tests for the TOU and the carbon adsorption system to demonstrate compliance with the requirements of 40 C.F.R.

§ 61.349. The performance tests shall be conducted in accordance with the requirements of 40 C.F.R. § 61.355. A copy of the performance test results shall be submitted to EPA within ninety (90) days of completion of the performance tests. The performance tests results shall be submitted in accordance with Paragraphs 76.H and 76.I.

G. Within 210 days of the effective date of the CAFO, the Respondents shall submit a written report to EPA showing compliance with Paragraphs 76.C, 76.D, and 76.E.

H. The certification and report identified in this Section must be accompanied by the following certification:

"I certify under penalty of law to the best of my knowledge and belief, that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

All submissions must be certified on behalf of the Respondent(s) by the signature of a person authorized to sign a permit application or a report under 40 C.F.R. § 270.11.

I. The certification and report required under this Section shall be sent to the following:

Craig Lutz
Toxics Enforcement Section (6EN-AT)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

D. STIPULATED PENALTIES

77. In addition to any other remedies or sanctions available to EPA, the Respondent(s) shall pay stipulated penalties in the following amounts for each day during which each failure or refusal to comply continues:

a. Failure to Timely Submit Reports or Plans - Paragraphs 69.A.11, 69.A.12, and 69.C.2

<u>Period of Noncompliance</u>	<u>Penalty Per Violation Per Day</u>
1st through 15th day	\$ 1,000
16th through 30th day	\$ 1,500
31st day and beyond	\$ 2,500

b. Failure to Comply with Certain Interim Operating Requirements – Paragraphs 69.A.5, 69.A.6, 69.A.7 (installation of AWFCO only), 69A.8, and 69.A.11

<u>Period of Noncompliance</u>	<u>Penalty Per Violation Per Day</u>
1st through 15th day	\$ 1,500
16th through 30th day	\$ 2,500
31st day and beyond	\$ 5,000

c. Failure to Comply with any Other Provision of Section III of this CAFO

<u>Period of Noncompliance</u>	<u>Penalty Per Violation Per Day</u>
1st through 15th day	\$ 500
16th through 30th day	\$ 1,000
31st day and beyond	\$ 1,500

d. Failure to Comply with Additional Requirements – Section IV.C

<u>Period of Noncompliance</u>	<u>Penalty Per Violation Per Day</u>
1st through 15th day	\$ 1,500
16th through 30th day	\$ 2,500
31st day and beyond	\$ 5,000

Penalties shall accrue from the date of the noncompliance until the date the violation is corrected, as determined by EPA.

78. The Respondent(s) shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of Paragraph 71 herein. Interest and late charges shall be paid as stated in Paragraphs 73 - 74 herein.

79. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of the Respondent(s) violation of this CAFO or of the statutes and regulations upon which this agreement is based, or for the Respondent's violation of any applicable provision of law.

E. DISPUTE RESOLUTION

80. If the Respondents object to any decision or directive of EPA in regard to Section III or IV.C, the Respondents shall notify each other and the following persons in writing of its objections, and the basis for those objections, within thirty (30) calendar days of receipt of EPA's decision or directive:

Associate Director
Hazardous Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Chief, RCRA Enforcement Branch (6RC-ER)
Office of Regional Counsel
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

81. The Associate Director of the Hazardous Waste Enforcement Branch or his/her designee (Associate Director), and the Respondents shall then have an additional thirty (30) calendar days from EPA's receipt of the Respondents' written objections to attempt to resolve the dispute. If an agreement is reached between the Associate Director and the Respondents, the agreement shall be reduced to writing and signed by the Associate Director and the Respondents and incorporated by reference into this CAFO.

82. If no agreement is reached between the Associate Director and the Respondents within that time period, the dispute shall be submitted to the Director of the Compliance

Assurance and Enforcement Division or his/her designee (Division Director). The Division Director and the Respondents shall then have a second 30-day period to resolve the dispute. If an agreement is reached between the Division Director and the Respondents, the resolution shall be reduced to writing and signed by the Division Director and the Respondents and incorporated by reference into this CAFO. If the Division Director and the Respondents are unable to reach agreement within this second 30-day period, the Division Director shall provide a written statement of EPA's decision to the Respondents, which shall be binding upon the Respondents and incorporated by reference into the CAFO.

83. If the Dispute Resolution process results in a modification of this CAFO, the modified CAFO must be approved by the Regional Judicial Officer and filed pursuant to Section IV.H (Modifications).

84. The invocation of dispute resolution procedures under this Section shall not extend, postpone, or affect in any way, any obligations of the Respondents under this CAFO, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first day of noncompliance, but payment shall be stayed pending resolution of the dispute. If the Respondents do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section IV.D.

F. FORCE MAJEURE

85. A "force majeure event" is any event beyond the control of the Respondents, their contractors, or any entity controlled by the Respondents that delays the performance of any obligation under this CAFO despite the Respondents' best efforts to fulfill the obligation. "Best efforts" includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting

delay to the greatest extent possible. "Force Majeure" does not include the Respondents' financial inability to perform any obligation under this CAFO, but does include any delays attributable to the TCEQ's permitting process and the conduct of the contested case hearing.

86. The Respondents shall provide notice orally or by electronic or facsimile transmission as soon as possible, but not later than 72 hours after the time the Respondents first knew of, or by the exercise of due diligence, reasonably should have known of, a claimed force majeure event. The Respondents shall also provide written notice, as provided in Section IV.G of this CAFO, within seven days of the time the Respondents first knew of, or by the exercise of due diligence, reasonably should have known of, the event. The notice shall state the anticipated duration of any delay; its cause(s); the Respondents' past and proposed actions to prevent or minimize any delay; a schedule for carrying out those actions; and the Respondents' rationale for attributing any delay to a force majeure event. Failure to give such notice shall preclude the Respondents from asserting any claim of force majeure.

87. The Respondent also shall provide notice orally or by electronic or facsimile transmission to the other Respondent not later than 24 hours after the time Respondent first knew of, or by the exercise of due diligence, reasonably should have known of, a claimed force majeure event, provided that the failure to give such notice shall not limit either Respondent's responsibilities under this CAFO.

88. If the Complainant agrees that a force majeure event has occurred, the Complainant may agree to extend the time for the Respondents to perform the affected requirements for the time necessary to complete those obligations. An extension of time to perform the obligations affected by a force majeure event shall not, by itself, extend the time to perform any other

obligation. Where the Complainant agrees to an extension of time, the appropriate modification shall be made pursuant to Section IV.H of this CAFO.

89. If the Complainant does not agree that a force majeure event has occurred, or does not agree to the extension of time sought by the Respondents, the Complainant's position shall be binding, unless the Respondents invokes Dispute Resolution under Section IV.D of this CAFO. In any such dispute, the Respondents bear the burden of proving, by a preponderance of the evidence, that each claimed force majeure event is a force majeure event; that the Respondents gave the notice required by the paragraph above, that the force majeure event caused any delay the Respondents' claimed was attributable to that event; and that the Respondents exercised their reasonable best efforts to prevent or minimize any delay caused by the event. If the Respondents carry this burden, the delay at issue shall be deemed not to be a violation of the affected obligation of this CAFO.

G. NOTIFICATION

90. Unless otherwise specified elsewhere in this CAFO, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other parties that another individual has been designated to receive the communication:

Complainant:

Chief, Compliance Enforcement Section (6EN-HE)
Hazardous Waste Enforcement Branch
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Respondent U.S. Ecology Texas, Inc.:

Mary Reagan
McGinnis, Lochridge & Kilgore, L.L.P.
600 Congress Avenue
Suite 2100
Austin, Texas 78701

Respondent TD*X Associates, L.P.:

J.D. Head
Fritz, Bryne, Head & Harrison, PLLC
98 San Jacinto Boulevard
Suite 2000
Austin, TX 78701

Texas Commission on Environmental Quality

Section Manager
Industrial and Hazardous Permits Section
Waste Permits Division
Texas Commission on Environmental Quality
P.O. Box 13087 MC 130
Austin, TX 78711

H. MODIFICATION

91. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except as otherwise specified in this CAFO, or upon the written agreement of the Complainant and Respondent(s), and approved by the Regional Judicial Officer, and such modification or amendment being filed with the Regional Hearing Clerk.

I. RETENTION OF ENFORCEMENT RIGHTS

92. EPA does not waive any rights or remedies available to EPA for any other violations by the Respondents of Federal or State laws, regulations, or permitting conditions.

93. Except as herein provided, nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous

substances, pollutants, contaminants, hazardous substances on, at or from the Respondent USET's facility or Respondent TD*X's oil reclamation unit and related equipment.

Furthermore, nothing in this CAFO shall be construed or to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

94. The Complainant reserves all legal and equitable remedies available to enforce the provisions of this CAFO. This CAFO shall not be construed to limit the rights of the EPA or United States to obtain penalties or injunctive relief under RCRA or under other federal or state laws, regulations, or permit conditions.

95. In any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other appropriate relief relating to this Facility or the oil reclamation unit, the Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the Complainant or the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

96. This CAFO is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The Respondents are responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. The Respondents' compliance with this CAFO shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The Complainant does not warrant or aver in any manner that the Respondents' compliance with any aspect of this

CAFO will result in compliance with provisions of the RCRA or with any other provisions of federal, State, or local laws, regulations, or permits.

J. INDEMNIFICATION OF EPA

97. Neither EPA nor the United States Government shall be liable for any injuries or damages to person or property resulting from the acts or omissions of the Respondents, their officers, directors, employees, agents, receivers, trustees, successors, assigns, or contractors in carrying out the activities required by this CAFO, nor shall EPA or the United States Government be held out as a party to any contract entered into by the Respondents in carrying out the activities required by this CAFO.

K. COSTS

98. Each party shall bear its own costs and attorney's fees. Furthermore, each Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

L. TERMINATION

99. At such time as the Respondents believe they have completed all of the requirements of this CAFO, they may request that EPA concur whether all of the requirements of this CAFO have been satisfied. Such request shall be in writing and shall provide the necessary documentation to establish whether there has been full compliance with the terms and conditions of this CAFO. EPA will respond to said request in writing within ninety (90) days of receipt of the request. This CAFO shall terminate when all actions required to be taken by this CAFO have been completed, and the Respondents have been notified by the EPA in writing that this CAFO has been satisfied and terminated.

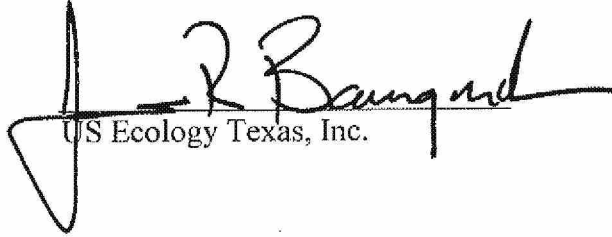
M. EFFECTIVE DATE

100. This CAFO, and any subsequent modifications, become effective upon filing with the Regional Hearing Clerk.

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

Date: 9/27/12


US Ecology Texas, Inc.

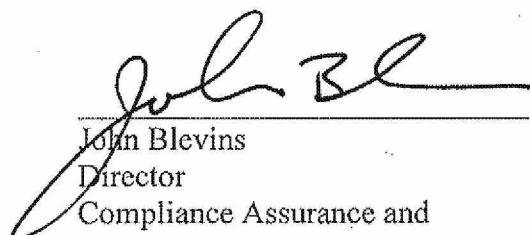
FOR THE RESPONDENT:

Date: September 26, 2012

Carl R. Palmer
TD*X Associates L.P.

FOR THE COMPLAINANT:

Date: 10.03.12

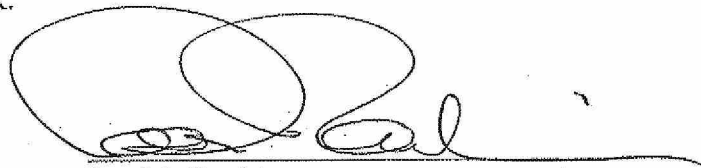


John Blevins
Director
Compliance Assurance and
Enforcement Division

FINAL ORDER

Pursuant to the Section 3008 of RCRA, 42 U.S.C. § 6928, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive relief or other equitable relief for criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect the Respondents' (or their officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondents are ordered to comply with the Compliance Order and terms of settlement as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 10/4/12

A handwritten signature in black ink, appearing to read 'Patrick Rankin', is written over a horizontal line.

Patrick Rankin
Regional Judicial Officer

APPENDIX 1 – OPERATING PARAMETERS

TABLE A

TDU OIL RECLAMATION SYSTEM INTERIM REQUIREMENTS PRIOR TO TDU INSTALLATION

Tag No.	Equipment Operating Parameter	Operating Parameter Limit	Compliance Basis
TT-18/19	TDU Dryer, Minimum Combustion Chamber Temperature	Maintain Temperature > 1,400°F	AWFCO: CPMS ¹ , 60-sec time delay
PT-1	TDU Dryer, Maximum Internal Pressure	Maintain Pressure < 0.00" W.C.	AWFCO: CPMS, 6-min Rolling Average (RA) ²
OE-1	Purge Vent Gas Stream Maximum O ₂ Concentration	O ₂ < 7%	AWFCO: CPMS, 60-sec time delay
FE-101	Maximum Purge Vent Rate	Purge Vent Rate < 180 scfm	AWFCO: CPMS, Hourly Rolling Average (HRA) ³
M-100	Minimum Percent Excess Air, Operation of Purge Vent Injector Air Supply	Purge Vent Air Supply > 20% Excess Air	AWFCO: CPMS, Tuning of Combustion Airflow
TE-28	Maximum Condenser System Exhaust Temperature	Temperature < 120°F	AWFCO: CPMS, HRA
	HEPA Filter Installed and Pressure Change Monitored to Ensure Integrity of Filter	Installed and Δ Pressure Monitoring	Installation Check; Δ Pressure Monitored Once Per Shift
	Maximum TDU Feed Mercury Concentration	[Hg] < 50 ppm/Bin	Blending Protocols & Documentation ⁴
	Maximum TDU Feed Organic Halide Concentration	[Total Organic Halides] < 1,500 ppm/Bin	Blending Protocols & Documentation

¹ Continuous Process Monitoring System – See Paragraph 69.1 of CAFO.² Previous six 1-minute readings are summed and divided by six.³ 40 C.F.R. §§ 63.1209(b)(5).⁴ See Paragraph 69.A.3 of the CAFO.

TABLE B

**TDU OIL RECLAMATION SYSTEM REQUIREMENTS AFTER TDU INSTALLATION
PRE-COMPLIANCE DEMONSTRATION TEST OPERATIONS**

Tag No.	Equipment Operating Parameter	Shakedown (Pre-Test) OPL	Compliance Basis
PT-1	TDU Dryer, Maximum Internal Pressure	Maintain Pressure < 0.00" W.C.	AWFCO: CPMS ⁵ , 6-min RA ⁶
M-05	TDU Dryer, Cylinder Rotation On	Motor Operating	AWFCO: CPMS, Instantaneous
M-18	Product Discharge System	Motor Operating	AWFCO: CPMS, Instantaneous
M-21	Recirculation Blower Operating	Motor Operating	AWFCO: CPMS, Instantaneous
TT-121	TOU, Minimum Combustion Chamber Temperature	Maintain Temperature > 1,400°F	AWFCO: CPMS, HRA ⁷
KY-110	TOU, Minimum Residence Time (Calculated from Purge Vent Flow Rate, Exhaust T, and Air Ratio)	Residence Time > 0.5 seconds	AWFCO: CPMS, HRA
AE-5/ OE-5	TOU Exhaust Gas, Maximum CO Concentration	[CO] < 100 ppm V @ 7% O ₂	AWFCO: CEMS for CO, HRA
OE-1	Purge Vent Gas Stream, Maximum O ₂ Concentration	[O ₂] < 7%	AWFCO: CPMS, Instantaneous
FE-101	Maximum Purge Vent Rate	Vent Flow < 250 scfm	AWFCO: CPMS, HRA
FCV-102	Valve Position to Ensure Purge Vent is not Directed Away from TOU	Valve Closed	AWFCO: CPMS, 60-sec delay
M-121	Minimum Percent Excess Air, Operation of Purge Vent Injector Air Supply	Purge Vent Air Supply > 20% Excess Air	AWFCO: CPMS, Tuning of Combustion Airflow
TE-28	Maximum Condenser System Exhaust Temperature	Maintain Temperature < 120°F	AWFCO: CPMS, HRA

⁵ Continuous Process Monitoring System – See Paragraph 69.1 of the CAFO.

⁶ Previous six 1-minute readings are summed and divided by six.

⁷ 40 C.F.R. §§ 63.1209(a)(6) and 63.1209(b)(5).

	HEPA Filter Installed and Pressure Change Monitored to Ensure Integrity of Filter	Installed and Δ Pressure Monitoring	Installation Check; Δ Pressure Monitored Once Per Shift
	Maximum TDU Feed Mercury Concentration	[Hg] < 50 ppm/Bin	Blending Protocols & Documentation ⁸ , Feed Stream Analysis Plan (if applicable) ⁹
	Maximum TDU Feed Organic Halide Concentration	[Total Organic Halides] < 1,500 ppm/Bin	Blending Protocols & Documentation, Feed Stream Analysis Plan (if applicable)
	Maximum TDU Feed Semi-Volatile Metals Concentration ¹⁰	N/A	Blending Protocols & Documentation, Feed Stream Analysis Plan (if applicable)
	Maximum TDU Feed Low-Volatile Metals Concentration ¹¹	N/A	Blending Protocols & Documentation, Feed Stream Analysis Plan (if applicable)

⁸ See Paragraph 69.A.3 of the CAFO.

⁹ See Paragraph 69.A.11 of the CAFO.

¹⁰ Semi-volatile metals means a combination of cadmium and lead.

¹¹ Low-volatile metals means a combination of Arsenic, Beryllium, and Chromium.

TABLE C
TDU OIL RECLAMATION REQUIREMENTS AFTER TDU INSTALLATION
POST-COMPLIANCE DEMONSTRATION TEST OPERATIONS

Tag No.	Equipment Operating Parameter	Interim/Final (Post-Test) OPL	Compliance Basis
PT-1	TDU Dryer, Maximum Internal Pressure	Maintain Pressure < 0.00" W.C.	AWFCO: CPMS ¹² , 6-min RA ¹³
M-05	TDU Dryer, Cylinder Rotation On	Motor Operating	AWFCO: CPMS, Instantaneous
M-18	Product Discharge System	Motor Operating	AWFCO: CPMS, Instantaneous
M-21	Recirculation Blower Operating	Motor Operating	AWFCO: CPMS, Instantaneous
T1-121	TOU, Minimum Combustion Chamber Temperature	OPL Established @ > 3-Run Average from CDT	AWFCO: CPMS, HRA ¹⁴
KY-110	TOU, Minimum Residence Time (Calculated from Purge Vent Flow Rate, Exhaust T, and Air Ratio)	Residence Time > 0.5 seconds	AWFCO: CPMS, HRA
AE-5/ OE-5	TOU Exhaust Gas, Maximum CO Concentration	Semi-Annual Testing until Waste Analysis Plan Approved, then Annual Testing	Performance Testing in lieu of CEMS; Waste Analysis Plan based with other OPLs
OE-1	Purge Vent Gas Stream, Maximum O ₂ Concentration	[O ₂] < 7%	AWFCO: CPMS, Instantaneous
FE-101	Maximum Purge Vent Rate	Vent Flow < 250 scfm	AWFCO: CPMS, HRA
FCV-102	Valve Position to Ensure Purge Vent is not Directed Away from TOU	Valve Closed	AWFCO: CPMS, 60-sec time delay
M-121	Minimum Percent Excess Air, Operation of Purge Vent Injector Air Supply	Purge Vent Air Supply > 20% Excess Air	AWFCO: CPMS, Tuning of Combustion Airflow

¹² Continuous Process Monitoring System – See Paragraph 69.I of CAFO.

¹³ Previous six 1-minute readings are summed and divided by six.

¹⁴ 40 C.F.R. §§ 63.1209(a)(6) and 63.1209(b)(5).

TE-28	Maximum Condenser System Exhaust Temperature	OPL Established @ < 3-run Average Based on CDT	AWFCO: CPMS, HRA
	HEPA Filter Installed and Pressure Change Monitored to Ensure Integrity of Filter	Installed and Δ Pressure Monitoring	Installation Check; Δ Pressure Monitored Once Per Shift
	Maximum TDU Feed Mercury Concentration	[Hg] < 50 ppm/Bin	Blending Protocols & Documentation ¹⁵ , Feed Stream Analysis Plan (if applicable) ¹⁶
	Maximum TDU Feed Organic Halide Concentration	OPL Established as Measured Ratio ¹⁷	Blending Protocols & Documentation, Feed Stream Analysis Plan (if applicable)
	Maximum TDU Feed Semi-Volatile Metals Concentration ¹⁸	OPL Established as Measured Ratio ¹⁹	Blending Protocols & Documentation, Feed Stream Analysis Plan (if applicable)
	Maximum TDU Feed Low-Volatile Metals Concentration ²⁰	OPL Established as Measured Ratio ²¹	Blending Protocols & Documentation, Feed Stream Analysis Plan (if applicable)

¹⁵ See Paragraph 69.A.3 of the CAFO.

¹⁶ See Paragraph 69.A.11 of the CAFO.

¹⁷ Maximum TDU Feed Concentration established as a measured ratio (not to exceed 4000 ppm/bin) from emissions data collected during CDT. See plan example calculations.

¹⁸ Semi-volatile metals means a combination of cadmium and lead.

¹⁹ Maximum TDU Feed Concentration established as measured ration from emissions data collected during CDT. See plan example calculations.

²⁰ Low-volatile metals means a combination of Arsenic, Beryllium, and Chromium.

²¹ Maximum TDU Feed Concentration established as measured ratio from emissions data collected during CDT. See plan example calculations.

APPENDIX 2 – BLENDING PROTOCOLS

**CONTAINS CONFIDENTIAL BUSINESS
INFORMATION**

DOCUMENT STORED IN FILE ROOM

APPENDIX 3

COMPLIANCE DEMONSTRATION TEST PLAN

**CONTAINS CONFIDENTIAL BUSINESS
INFORMATION**

DOCUMENT STORED IN FILE ROOM

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of October, 2012, the original and one copy of the foregoing Consent Agreement and Final Order (CAFO) was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that true and correct copies of the CAFO were sent to the following by the method indicated below:

For US Ecology Texas, Inc.

Certified Mail – Return Receipt Requested – 7007 0710 0002 1385 1491

Mary Reagan
McGinnis, Lochridge & Kilgore, L.L.P.
600 Congress Avenue, Suite 2100
Austin, Texas 78701

For TD*X Associates LP

Certified Mail – Return Receipt Requested – 7007 0710 0002 1385 1507

J.D. Head
Fritz, Bryne, Head & Harrison, PLLC
98 San Jacinto Boulevard
Suite 2000
Austin, TX 78701

Evan L Pearson



Environmental Technology Council

By Certified U.S. Mail

Electronic copy of this letter available at:

<http://etc.org/media/7229/ETC-Letter-to-Cynthia-Giles-re-TDUs.pdf>

1112 16th Street, NW
Suite 420
Washington, DC 20036
Tel: (202) 783-0870
Fax: (202) 737-2038
www.etc.org

July 29, 2016

Ms. Cynthia Giles, Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency (Mail Code 2201A)
1200 Pennsylvania Ave. NW
Washington, DC 20460

Re: Request For A Meeting To Discuss Inconsistent Compliance
For Thermal Desorption Units That Process Hazardous Waste

Dear Ms. Giles:

The Environmental Technology Council, the trade association for the hazardous waste management industry, requests a meeting to discuss inconsistent enforcement and compliance policies being applied by different EPA regional offices to so-called Thermal Desorption Units (TDUs) that are used to thermally destroy hazardous wastes. Due to the significance of this matter, a meeting is requested at your earliest opportunity so that we can discuss measures to better insure enforcement consistency for the hazardous waste industry.

Who we are

The Environmental Technology Council (ETC) is a national trade association whose mission is "to promote the protection of public health and the environment through the adoption of environmentally sound procedures and technologies for recycling and detoxifying industrial wastes and by-products and properly managing and disposing of wastes and waste residues." See www.etc.org. Consistent with this mission, ETC members have a substantial interest in insuring consistency on how environmental compliance requirements are applied within our industry.

Why we've contacted you

ETC understands that the Office of Enforcement and Compliance Assurance (OECA) will address pollution problems that impact American communities through vigorous civil and criminal enforcement that targets the most serious water, air and chemical hazards. As part of this mission, OECA works to advance environmental justice by protecting communities most vulnerable to pollution. Due to the human health risks and environmental justice concerns of burning hazardous wastes in TDUs without a permit under the Resource Conservation and Recovery Act (RCRA), ETC believes that OECA should be briefed on the serious matter.